

POST/EMAIL SUBMISSION DETAILS		
Date Received	08/03/2017	
Name	[REDACTED]	
Organisation	Practical Ecology Pty Ltd	
Email	[REDACTED]	
Postcode	3072	
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	Yes
	Targetted consultation	Yes
	SRG	
	Written submission to CP?	Yes
	Other? Describe	
Will changes improve function of regs?	Yes	
Reasons	Yes, primarily because they will now potentially include consideration of important ecological values that were not so well considered in the current system.	
Implementation issue with proposed changes?		
Reasons		
Guidelines – guidance or clarification needed?	No	
Details		
Terms to include in guidelines glossary?		
Details		
Subscribe to e-newsletter?	Yes. Please send information updates to my email address	
Other comments		
Written submission provided?	Yes – attached	

Response to documents associated with the *Review of the native vegetation clearing regulations* - March 2017

Practical Ecology (PE) welcomes the opportunity to respond to the proposed updates associated with the Review of Victoria's native vegetation clearing regulations.

This policy is important to our business; and this is Practical Ecology's second submission in response to this particular review of *Victoria's Permitted Native Vegetation Clearing Regulations*. Additionally, our staff has participated in workshops organised by the review team in Melbourne and Bendigo, as well as a workshop organised by the Victorian Ecological Consultants Network and the Biodiversity Planners Network (combined).

As ecological consultants we assist our clients to address the requirements of the Planning and Environment Act which has the dual objectives of facilitating development while aiming to also protect and enhance ecological values. This day-to-day experience of balancing difficult often conflicting issues provides us with an informed and practical perspective on the planning system.

This submission acknowledges that the review process is now nearing completion and the documents that are presented for review are close to finalisation.

Accordingly, the following comments focus on three key documents that have resulted from the review process:

- Outcomes report (November, 2016)
- Draft Native vegetation clearing - Assessment guidelines (November, 2016)
- Summary of proposed amendments to the Victoria Planning Provisions (November, 2016)

This submission will primarily focus on key items within the Assessment guidelines although some general responses to the Outcomes Report are also provided.

1. Response to the *Outcomes Report*

The outcomes report provides further information on three key outcomes of the review:

1. Provide better protection for sensitive native vegetation;
2. Enhance the overall function of the regulations; and
3. Increase transparency of the system

This document includes 29 Potential Improvements (PI's) that were proposed in previous iterations of the policy review and details how each of these PI's were incorporated into the proposed policy or not (implementation approach).

Practical Ecology responded separately to each of the PI's in past consultation episodes. It is noted that many of the implementation of PI's can be seen within the Draft Assessment Guidelines and also within the proposed updates to the VPPs.

Our general response to the outcomes and intent of the review is that: **the proposed policy; supporting documentation and commitments contained within represent an improvement on the current policy for a number of reasons.** These include:

- A stronger emphasis on ‘avoid and minimise’. We see this as an important principle for Clause 52.17 as it provides better protection for native vegetation where it is often of limited extent and has important values. The added focus also enables us to negotiate for better ecological outcomes with our clients while still enabling desired development proposals.
- A stronger emphasis on transparency including retention of the members of the stakeholder reference group, more reporting and more publicly available information.
 - Initiatives such as increasing the requirements for offset sites (third and first party) to be registered on the NVCR seem like they will certainly increase the ability to document outcomes and follow up. There is clearly a view in large sections of the conservation community in Victoria that offsets are not properly enforced and better mechanisms of recording offsets would be worthwhile to counter that perception.
 - However, **we note that without increased resourcing to match the increased use of the NVCR will be required** to ensure that this does not result in future delays, leading to landholder dissatisfaction.
 - **Enabling the registration of potential offset sites would also be a positive step, enabling greater participation in and public review and awareness of the offset market.** Most sales data of real estate is in the public domain and analysed over time for public benefit and similar transparency in the offset could be useful for public benefit.

- **We support the public listing of all MoU’s with authorities and agencies that outline their exemption arrangements.**

We have had a number of recent projects that have involved the ‘roads exemption’ and have been hampered by confusion among stakeholders regarding their rights, definitions and obligations under these exemptions and arrangements. We also recently encountered a MoU that was circa 1983 which few in the organisation (local government) knew of or understood.

This is an area that the public and those who are working in the industry need much more awareness of, and the review of each of these documents requires a high level of stakeholder interaction and transparency as the ongoing implementation of exempt works after approval of an MOU can have significant impacts on the environment even though it is reasonable to facilitate less bureaucratic barriers to necessary public works.

- Better support for local government.
- A focus on compliance and enforcement.
 - **The PI’s associated with this initiative need to be implemented as a priority and funded accordingly.** In our experience we have seen sporadic monitoring and enforcement of the regulations and offset obligations, resulting in a self-regulated system that does not necessarily meet the intent of the regulation or provide the best ecological/biodiversity outcomes.

- We note that Trust for Nature is the most consistent organisation in monitoring and enforcing offset obligations with regular stewardship visits and ongoing liaison with covenant holders. Their system is possibly the most trusted system in Victoria for protecting native vegetation on private land and at minimum could inspire other offset monitoring systems.

2. Response to key items within the Assessment Guidelines

We understand that the *Draft Native vegetation clearing - Assessment guidelines* (November, 2016) are intended to replace the *Biodiversity Assessment Guidelines* (DEPI 2013), as an incorporated document under the Planning and Environment Act, 1987.

The assessment guidelines form the basis for much of our work and we have the following comments on the proposed 'guidelines'.

2.1 Site based information

We note the following key items that represent key additions to the site based information component of the assessment process.

- Remnant patches: addition of wetlands as per wetland layer mapped in BIM.
- Scattered trees classed into 2 sizes allowing for recognition of the importance of large trees.
- Endangered Ecological Vegetation Classes (EVCs)

We are supportive of these three additions to the assessment process. They recognise the importance of these important ecological/habitat values and are a definite improvement on the previous policy.

2.2 Landscape information

We are supportive of the inclusion of dispersed habitat for rare or threatened species. However, we are very interested to know of further details for how the Location Map and Habitat Importance Maps have been compiled. Without these specifics, we cannot understand completely the value of the proposed improvements here.

2.3 Assessment pathways

We are generally supportive of the adjustments to the assessment pathways and very supportive of the recognition of large trees as part of the process.

However, we note that the inclusion of large trees as part of this process, particularly for the 'basic assessment pathway' (no ecological assessment required) will potentially be highly problematic for landowners and/or local government. In general 'low risk' (current) or 'basic' (proposed) applications assume some level of ecological knowledge within the general public, and this has shown to be an incorrect assumption based on the number of RFI's we (PE) receive from Local Government for permit applicants to provide more ecological information for 'low' risk applications.

The system is designed to minimise the resources required for low risk applications where minimal native vegetation is present but it is not always effective as many applicants do not understand the system properly. The other result is inconsistent enforcement of the planning provisions because Councils with personnel with less detailed knowledge of native vegetation, particularly rural councils, are applying less scrutiny, potentially allowing significant native vegetation to be cleared.

Practical Ecology still strongly advocates that **all** ecological assessments involve professionals to achieve better overall ecological outcomes for the landscape, and to reduce the number of planning applications ‘clogging’ the system through the Request for Further Information (RFI) process. If the goal of eliminating the need for hiring ecological consultants in low risk applications while protecting native vegetation where appropriate remains in place, which it does as we understand, helping ensure all Councils have adequate trained environmental staff to properly review planning permit applications is required. Some funding or subsidy from the state government for trained staff may be required and such funding could easily pay for itself in promoting good quality applications that take less time in the planning system.

We recommend that as a minimum all local government staff assessing native vegetation permits are required to become ‘accredited’ assessors. In addition, the state government should consider a system and possibly funding so that all Councils can afford this important internal resource.

2.4 Assessment requirements

- We are supportive of the **upfront requirement for avoid and minimise statements** for all applications and upfront consideration of ‘other considerations’. This should be straightforward for us to include within our mapping and reporting templates and is generally in line with what we usually include.
- We also note the requirement for where defensible space is being created that a written statement be included. It is our observation that there is a significant amount of vegetation clearing that is occurring under the exemptions associated with Clause 52.48-6, particularly for building in areas where the Bushfire Management Overlay applies (please refer to the discussion below on this point).
- General policy guidance material should note that Clause 52.17 is just one permit trigger, and that there are numerous other Clauses plus zoning and any overlays that impact on decisions relating to native vegetation. Clause 52.17 does not act in isolation, and planning permit applicants should be aware that not all decisions related to native vegetation stem from Clause 52.17. Rather it is considered within the context of all relevant planning policy and legislation. Many of our clients have permit application requirements under more than one area of the planning scheme that are relevant to native vegetation. These include the requirements of both Clauses 52.17, 52.48 and relevant overlays such as Environmental Significance Overlays, Vegetation Protection Overlays, Significant Landscape Overlays, Design and Development Overlays, Erosion Management Overlays, Land Subject to Inundation Overlays, Heritage Overlays, Bushfire Management Overlays, etc.
- In the Yarra Ranges Shire there are also the requirements of Clause 53.01 Commonwealth; and other state requirements sit alongside those mentioned above.

We understand that the scope of this review was focussed to just 52.17 and 52.16, **however, we support that the impacts of other parts of the VPPs and municipal planning schemes are relevant to the intended outcomes of this review and should have been considered as part of the review.**

We also recommend that support or guidance materials for landholders, consultants and responsible authorities **include information on all of the requirements relevant to native vegetation** (all relevant planning policy and legislation triggers, not just Clause 52.17) that may be associated with a permit application. There are many permit triggers that require consideration and assessment of native vegetation, such as particular zonings like Rural Conservation Zone and wide variety of overlays, and it is likely that much of the public angst around planning delays related to native

vegetation are focussed unfairly on Clause 52.17. An overview of all of the possible permits triggers for native vegetation removal should be available and provided at the earliest possible opportunity to the landholder so that it is considered upfront and not in the middle or at the end of their application process as is quite often the case. This material could be developed by the state for the entire state or more appropriately developed for different regions or Councils in cooperation with appropriate organisations.

Additionally, we observe that many situations of conflict within the planning scheme, are as a result of poor strategic planning, i.e. such as allowing development in areas that contain a high cover of native vegetation (also increasing bushfire risk to future residents). We particularly see how these conflicts affect private individuals who just want to build a house. Much of the conflict between development aspirations and the need for protection of native vegetation protection is caused by inappropriate zoning put in place when there was much less awareness and planning requirements to protect native vegetation. One of the more contemporary solutions to these issues are placing overlays over areas of native vegetation but this often doesn't eliminate the conflicting provisions of the planning schemes in any one area or region.

This conflict between zoning and ecological values is a significant issue in our experience on the coal face of the planning system. We have seen on several occasions the same block of land in peri-urban Melbourne cause a whole series of families to spend significant amounts of time and money in unsuccessful attempts to receive a planning permit for a home because of significant ecological values despite zoning that seems to allow development. There are also many planning permit applications that have been successful but only due to significant amounts of redesign and negotiation later in the process as the extent of ecological values and the power of the planning provisions have become apparent. Many families spend much more on architects and planners because they have sites with conflicting zoning and ecological values but do not receive adequate advice until later in the process when good money has already been spent. In these situations, too often the environment loses out as the pressure to approve dwellings can be substantial and once a dwelling is present there can be much clearing permitted and further unintended disturbance. The purpose of the planning system is to encourage appropriate development in appropriate places while protecting important values, however we sometimes observe that there are some key examples of where this is not occurring.

We recommend that there be an overarching strategic review of land zoning and ecological values across the State with the view to reducing the amount of conflict between zoning that intends to either encourage development and retain remnant native vegetation. Regions that we have observed to particularly benefit from such a review would be the Bendigo and Central Victorian region (City of Greater Bendigo and Mt Alexander Shire); Mitchell Shire, Hepburn Shire, Mornington Peninsula and Melbourne's fringe areas including Nillumbik, Manningham, Yarra Ranges, Cardinia, Casey, Hume, Whittlesea, Melton, Wyndham and Frankston.

2.5 Gain

For where gain is to be applied to revegetation/regeneration proposals: We are supportive of initiatives to include strategic revegetation or regeneration to appropriate standards to buffer a remnant and/or link a series of patches. However, more details for how this would work are required.

2.6 Offsets

We note that there is some intention to formalise an arrangement for ‘offset attribute exchanges’.

This would allow for the reduction of the strategic biodiversity value of an offset site (by 10%) if it contains 10% more general biodiversity units or at least 2 large trees for every large tree to be removed.

For specific offsets, it may allow for alternative arrangements in limited and exceptional cases and would require approval by the DELWP secretary.

While we are supportive of the proposed arrangement for general offset exchanges as this flexibility seems logical, we are cautious of the current proposal for strategic offsets.

It is our observation that a number of applications under the current policy have progressed even where the specific offset requirements could not be met with various ‘deals’ around the required offset.

Should specific offset ‘deals’ be brokered, these need to be transparent and be made using a process and set of guidelines that are clearly understood. Similar situations under the framework and the current policy where deals are made without a transparent framework and decision-making guidance have the potential to greatly undermine the integrity of the policy. All such decisions must be documented and made publicly available on a register as a minimum planning requirement.

2.7 Use of site based information to supplement mapped information

We are aware that the previous habitat importance mapping did not include habitat importance models for the complete set of VROTs.

- **In the interests of transparency, we propose that the methodology used to determine the models and the status of model development for each species should be made publicly available.**
- **This information is also required so that we know when to apply the use of site-based information, i.e. for when a habitat importance model has not been developed (as per one of the proposed options).**

3. OUTSTANDING ITEMS THAT HAVE NOT YET BEEN PROVIDED FOR REVIEW

We note that there are a number of products of the future policy that are not yet available for review. These include:

- Updated maps/models
- Full set of potential exemptions including proposed new MoUs with authorities/agencies
- Updated revegetation standards
- Supporting policy e.g. Crown Land Offsets policy
- Supporting guidance e.g. Support guidance for local government
- Supporting strategies e.g. Compliance and Enforcement

In regard to these outstanding items, **we are particularly interested to see and provide comment on each of these items. We have already clarified this interest in the maps/models and MoUs in earlier parts of this submission.**

In regard to a future Crown Land Offsets policy, it would be good to see increased additions to conservation reserves and national parks enabled with the appropriate management funding.

Therefore, in general we support that this policy may be used for 3rd party offsets that would result in additionality. **Should any first party offsets occur, these should only be utilised for strategic situations where improved management or conservation work will result in additional conservation benefits;** for example, a cleared area within a park being actively regenerated.

Should the policy be used for these scenarios, strict rules around integrity, governance and transparency need to be applied.

Clause 52.48 creates exemptions for clearing native vegetation for defensible space around dwellings. It is quite clear and reasonable that defensible space be facilitated without permit around existing houses. However, the clause is somewhat unclear if the required defensible space around new dwellings is exempt from a planning permit and offsetting. We have had a Council change its interpretation of this clause twice in a few years after different legal advice. If a new dwelling is built in a rural or remote landscape the required defensible space is an integral part of the environmental impact of that dwelling in the same way that a driveway, utility connections, effluent zone or similar is part of the impact. In our view, all of the impacts of a new dwelling should be considered as part of the planning process where a dwelling is not as of right in the zoning.

We recommend that Clause 52.48 be reviewed and that the language be made clearer and that an exemption from a planning permit for clearing native vegetation not be allowed for new dwellings as any defensible space should be considered as part of the impact of a new dwelling when a permit is required.

4. In conclusion

We note that the review team has acknowledged that there was value in actively involving and surveying ecological consultants and that there is an intention for a stakeholder group to provide continuing oversight over the implementation of the policy.

We request that future opportunities for consultation with ecological consultants are sought and would welcome more engagement in the future of the policy which affects our industry and the landscape and nature that is the focus of our work and interest.

We recommend that the inclusion of 1-2 ecological consultants in the stakeholder group, to provide the perspective of those who work with the policy 'on the ground'.

In summary, this submission is based on extensive discussions and input from our team of ecological consultants. It is offered in the spirit of helping support good planning in the state of Victoria, particularly in relation to the protection of native vegetation and ecological values.

Sincerely yours,



Managing Director and Ecological and Bushfire Risk Consultant