

## **Submission- Native Vegetation Clearing Regulations and Assessment Guidelines.**

Yarra Ranges Council wishes to thank the DEWLP for this opportunity to provide comment on the draft Native Vegetation Clearing – Assessment Guidelines.

There are inconsistent approaches and varying attitudes towards vegetation protection from municipality to municipality, across the state. Biodiversity protection achieved through layers of local planning controls, such as Environmental Significance or Significant Landscape or Tree Protection Overlays, varies massively in their coverage and intent across Victoria. Some local government areas focus strongly on habitat retention, while others may be less committed. It is therefore imperative that the overarching controls – the VPP's – can provide a state-wide, non-discriminatory level of biodiversity and vegetation protection.

As a Responsible Authority for the application of regulatory planning controls to both provide services and infrastructure in addition to biodiversity protection, Local Councils would benefit from the streamlining of this important planning provision. Applicants would also benefit from a system with less ambiguity and “red tape”, more certainty and clarity as well as ease of use.

Yarra Range's municipality supports extensive areas of native vegetation within private and public ownership, with planning and environment staff implementing these important vegetation-specific planning provisions on a daily basis. While there are many positive changes in the review, Yarra Ranges Council shall remain focussed on proposed amendments that more specifically affect the municipality.

### **Vegetation Loss and the Planning Process**

Streamlining the permitted removal of native vegetation via the new Native Vegetation Clearing guidelines (including the amendments made in this review), with the commitment to achieve a No Net Loss of native vegetation, will come part way to addressing permitted biodiversity loss.

Refinement of the current methodologies should also aim to provide landholders some degree of flexibility and certainty in land utilization without excessive “red tape” and costs associated with what could otherwise be an onerous planning process.

## November 2016 Review

Yarra Ranges Council wishes to provide the following comments regarding the Draft Native Vegetation Clearing Regulations.

### Things we like:

We overall support the aim to reduce red tape, increase clear objective assessment by all parties.

### Exemptions

- Conservation work exemption: Under the guidance of an approved conservation management plan, the removal of vegetation for conservation works will be a welcomed addition, removing the red tape and onerous planning process for quality conservation works. This is particularly valuable for works that will require multiple applications to achieve the desired environmental outcome, such as ecological burning and removal of invasive indigenous species.
- The rewording of the Emergency Works exemption in Clause 52.17 to remove ambiguity.
- The removal of the duplication of the Fire Protection exemption from Clause 52.17, as this is better placed within Clause 52.48

### Mapping

- Mapped wetlands are added to the new guidelines – any wetland in the current wetlands layer in Biodiversity Interactive Map (BIM) is treated as a patch of native vegetation. The inclusion of mapped wetlands to be treated as patch is desirable as these habitats are often undervalued due to seasonal variation.
- There appears to be a refinement in the mapping for the different Locations, with an increase in the extent of Location B (previous Medium Risk), as this Location is now based on the extent of Threatened EVC's and mapped wetlands. This improvement, coupled with the change in extent threshold should address some of the short-falls in the current system where much of the state, even areas with significant onsite values, will be more appropriately considered.

### Assessment Pathways

- The change from Low Risk/Medium Risk/High Risk to Basic/Intermediate/Detailed now makes the language more inline with level of assessment required rather than the biodiversity risk. This should improve applicant understanding of the process.
- Changes have been made to the risk / assessment pathways in the way which scattered trees and patch sizes influence the assessment pathway.

Scattered small trees no longer affect the level of assessment required during the planning assessment process.

### **Trees and Patch Size**

- The acknowledgement of smaller trees now holding a lower value than large trees is a welcomed modification to the clearing regulations. Previously, there was little incentive to retain large trees over small trees while they all held the same native vegetation offset value. This amendment will encourage the retention of substantial and environmentally significant trees, with increased incentive for applicants to direct tree removal towards smaller trees which will thus lower their offset commitments.
- Small scattered trees will no longer have an influence on the assessment pathway, whereas the presence of a large tree in a patch will influence the Pathway.
- The patch size of remnant vegetation cleared has changed under the proposed system. Clearance of patch of native vegetation equal or greater than 0.5 ha will now automatically trigger the Detailed assessment pathway regardless of the location of the site. Under the current system if the clearance was in Location A then the clearance would need to be equal to or greater than 1 ha to move above the Low risk category.

### **Avoid/Minimise**

- All applications regardless of pathway must provide an avoid and minimisation statement explaining why the native vegetation removal cannot be avoided and how impacts on biodiversity and other values of native vegetation have been minimised. Applicants in the basic pathway should not be required to make an avoid/ minimise offset statement other than that they have considered it.
- The new regulations re-introduce the ability of regulations to discourage the removal of higher value trees by apportioning higher offsetting requirements on those trees than smaller or less significant trees, which achieves the avoid and minimise objective.

## **Things that could be improved:**

### **Trees**

- A further acknowledgement may be desirable for very large old trees that far exceed benchmark DBH, although this may be achieved through the ability to afford higher offsetting requirements to higher value trees.

### **Mapping**

- The DEWLP raster files (maps) used to determine Risk Assessment Pathways as well as any required Native Vegetation Offsets are commonly known to be poor resolution. These often impact applications that might

otherwise be assessed as Low Risk (Location A) placing them into a mapped Location Risk B or C. The converse also applies, where areas of higher quality and supporting significant species might be mapped as Location Risk A and thus treated as Low Risk applications. Improvement in the mapping resolution will decrease the conflict that can often arise when dealing with planning applications. Applicants should not be required to provide High Risk Pathway offsets for environments that are degraded, whilst losses of poorly-mapped significant vegetation are being approved without the application of Avoid/Minimise methodology.

### Offsets and Fire Buffers.

- Vegetation loss in the fire management zones for defensible space should not be calculated as 100% loss. The real loss is more likely less than 50%.

### NVIM

- Council supports ongoing investment in the NVIM tool to ensure that it is understandable for the layperson yet powerful enough to ensure accurate results. Under the current system anecdotal information from planning staff is that about 90% of applicants are getting someone else to complete their NVIM report.

### Supporting Documentation

- The Summary of Proposed Amendments to the Victorian Planning Provisions refers to the document '*Assessment Handbook – native vegetation clearing*' which is to provide updated content to, and replace, the document '*Biodiversity assessment handbook – Permitted clearing of native vegetation*'. As this updated document has not been released for comment alongside the released Review, there is some trepidation to making comment regarding proposed changes without the supporting planning application assessment guide. The Yarra Ranges Council looks forward to receiving this document when it becomes available.

## Things we don't like

### Avoid/Minimise Statement

- Applicants in the basic pathway should not be required to make an avoid/minimise offset statement other than that they have considered it.
- DELWP need to provide clearer definitions that planning applicants and responsible authorities can understand and apply consistently for Avoid and Minimise. This is needed to stop the situation of subjective interpretation leading to huge time delays and additional costs to applicants when Council staff have a different view to the applicant's expert.

## Mapping

- The Location Map does not appear to have substantially changed in the Yarra Ranges municipality. Therefore many of the previous issues we have had with accuracy of this map leading to perverse outcomes for an applicant or the environment are still likely to arise.
- We have been informed that other maps such as the threatened species maps have been improved but we have not seen these to be able to provide comment on their usefulness.

## In summary

Yarra Ranges Council is supportive of any improvements to the Native Vegetation Clearing Regulations that can afford protection to our native vegetation and important habitats whilst also offering applicants certainty and an easy-to-use system. The outcomes should achieve a No Net Loss in biodiversity across the state, yet also reduce “red tape” and ambiguities in the VPP’s – many of the proposed changes to Clause 52.16, Clause 52.17 and Clause 52.48, as well as other supporting Clauses, should provide both applicants AND regulatory authorities such as Local Councils with the tools and support to reduce the burden of onerous planning processes.