Dear DELWP

Thank you for providing us with an opportunity to make a submission on the Review of the Native Vegetation Clearing Regulations. Please find the submission from Moreland City Council attached to this letter.

If you require further clarification of any of the comments included in this submission, then please do not hesitate to contact us.

Sincerely,

Open Space Planner                  Natural Resource Management Officer

Open Space Design & Development | Moreland City Council
7 - 9 Walter St, Hadfield 3046 | Locked Bag 10, Moreland 3058

Moreland City Council Submission

1. Native vegetation clearing policy

   • Council is supportive of the general principle of the ‘no net loss’ policy and the three tiered approach (avoidance, minimise and offset) with greater emphasis placed on avoidance being the first priority.

   • As outlined in 1.2.3, the policy relies on sufficient strategic planning to protect and conserve biodiversity. Effective strategic planning, particularly the use of overlays is critical for the protection of areas of significant vegetation. It should be recognised that without overlays such as the Environmental Significance Overlay (ESO), areas of significant vegetation at risk can be overlooked. This is particularly relevant in areas where such vegetation is not as easily recognisable to the untrained eyes of those responsible for making planning decisions. For example, grasslands as opposed to bushland areas.

   • Greater support from DELWP for Councils to implement a consistent approach to strategic planning across the state is welcomed. It would also be worth recognising that some councils may require a greater level of encouragement to recognise their obligations to undertake this strategic work as it may be lower on the agenda in more developed areas.
- 52.17 is heavily reliant upon planning officers understanding vegetation and as a consequence, there is little interest in referrals to Open Space for a more detailed assessment. Greater direction and guidance provided by DELWP (such as training opportunities in vegetation and clearance legislation) would be helpful for local government planners who do not appreciate the broader significance of vegetation vis-à-vis significant trees.

- Council has some concerns around some terminology, including for example, the statement referring to the "significant impacts" and "significant loss" of biodiversity rather than acknowledging the incremental and diffuse nature of much of the losses.

- Council would appreciate greater detail in regard to Point 3 for the Regulations to be guided by the use of (and absence of) local government overlays such as ESO, VPO and significant vegetation classes. Unfortunately, many state regulations seem to operate in a bubble still, rather than in an integrated manner with both Federal and other state regulations.

- Council has found that Strategic Planners are reluctant to make changes to the Planning Scheme for the protection of native and significant vegetation for two reasons: (i) process is very complex and a burden on often under-resourced units (ii) enforcement is weak - required to go through VCAT rather than supportive of Local Laws or other vehicles. It is likely that this situation is common among local governments and it would therefore be helpful to have templates, process maps and standard briefs that reduce the need for duplication among LGAs.

- Council require greater clarification of "avoidance of native vegetation removal where possible" - is there some definition or guidance on what "where possible" means? A provision of precedence on the DELWP website and through ongoing training would be appreciated.

- There remains a heavy reliance on mapping which is not always accurate or updated. Most likely requires input of detailed mapping from local level - is there support and direction for LGAs on how to set up and maintain such mapping?

- It remains unclear how monitoring Pt 4 is going to be undertaken. There remains insufficient monitoring now with very little guidance on a measurement matrix for urban areas where the habitat hectares is probably less relevant. It is also unclear if resources and methodologies are going to be made available to LGAs to undertake monitoring or will this be undertaken by the State Govt.?

- Council request DELWP prepare a service plan for local governments that include any adopted changes outlining the ongoing obligations and associated funding requirements to meet these obligations including ongoing training and education.

- Council will require funding support for Officers and equipment, specific to Moreland City Council, to provide a service for any additional requirements under planned changes.

---

2. Permit process and decision making

- Council supports the reduction in threshold for low risk applications and the requirement for offsets for all applications (not just high and medium). The cumulative effect of vegetation losses
through the low risk pathway result in a larger impact overall. Low Risk Thresholds need to be workable for urban environments where often small scale loss occurs at a diffuse level.

- The requirement for all applications to include a statement of avoidance and minimisation will also assist with seeking the better outcome and in making more considered planning decisions.

- Moreland Council also supports the recognition and inclusion of consideration of local biodiversity importance in the decision making process. How this is undertaken effectively may require further detail in the tools used for decision making as discussed below.

- Support needed for off-set strategy prior to the issuance of a permit so that real and local options can be considered.

- Council welcomes improved guidance and implications of rejecting a permit application.

- As noted in Part 1. above, there are still issues around definition of removal of native vegetation that would have a significant impact on biodiversity.

- Council would welcome training opportunities and guidance on the potential and meaning of "locally significant" and where this would impact upon LGAs. Additional guidance also needed on how locally significant categories outside overlays stand against state planning scheme and VCAT rulings.

- Council support greater transparency of the off-sets register to facilitate analysis.

- Are local off-sets available on Council and Crown land and how could private residents and Council utilise opportunities to increase the protection of vegetation?

3. Biodiversity information tools used in decision making and offset rules

- As outlined in this section, there are significant limitations in the mapping and tools currently relied on for decision making. Moreland Council supports the provision of greater clarity about how this data is determined and opportunities to provide input into the data system. Moreland Council undertook a municipality wide assessment in 2011 of significant vegetation using a highly qualified ecological consultant. This recognised a number of sites of national and state significance and many of these are not at all recognised in the current NVIM.

- While somewhat outside the scope of this review, Council would be interested to better understand the role of neglect and weed invasion including propagule pressure in relation to the protection of habitat and its role vis-à-vis vegetation clearance. Council appreciate the reality that this could be a double edge sword for both public and private landowners, but believe it to be equally valuable in regards to improved land management.

4. Offset delivery

- The Native Vegetation Credit Register offers opportunities to support more meaningful offset projects and an easy option for developers. However, in order to achieve no net loss, careful scrutiny of sites listed on the register needs to occur. If native vegetation is protected under 52:17,
are areas of existing vegetation listed on the credit register really at risk? Basic accounting suggests there is still a loss in existing vegetation here unless there is some real on ground gains to be made at the offset site.

- The current methodology for assessing significance and pricing offsets, particularly for scattered trees can underestimate the value of these trees. A recent example of this was the loss of a relatively large remnant red gum in an industrial site. When assessing the value of street trees as part of application processes, trees are assessed using the Burnley Tree Assessment Method (check name). Under this evaluation, the tree was valued at between $15,000-$20,000. However, assessed through the offset process, the developers were able to offset this tree for approximately $1000, a seemingly largely underestimated value of the initial trees worth.

5. Exemptions

- This section refers to the need for greater clarity around exemptions for planted vegetation. In a municipality where much of the remnant vegetation has been lost, planted vegetation plays a significant role and the origin of the vegetation is often questionable without retained local knowledge. This vegetation is often poorly considered in projects such as drainage installation, recreation projects and road construction which can sometimes slide under the radar as ‘minor service installation’. For example, a significant amount of vegetation along the Citylink easement has also recently been lost as a result of the widening project, supposedly through exemptions. Whilst further clarity around planted vegetation and exemptions may still mean that this vegetation is lost, further scrutiny around it may help to at least encourage greater retention where possible rather than blanket losses.

- Council welcome to call for collecting data on exemptions but are concerned that it may be difficult to collect unless there is an audit requirement. In addition there would need to be some clarity over the scale of such works, which at present remains unclear, for example, what triggers?

- Council strongly support greater clarity and detailed direction on the meaning of exemptions including intent and purpose with examples provided on DELWP’s website and through training programs.

- Exemption guidance should be cross referenced to other State and Federal regulations where relevant, such as the EPBC Act and FFG Act because often one area is exempt but not others so a decision-making processes should be clear.

- Council would welcome greater clarity and direction in regard to State government land where gaps remain in controls and enforcement – especially in regard to “essential” works as well as works that are deemed to be “minor”.

6. Compliance and enforcement

- As noted in the consultation paper, a lack of resources can impact on Councils’ ability to enforce and undertake compliance and enforcement. Extra Council resources (Environment officers and planners) are also required as often Planning Enforcement Officers often have limited
understanding of native vegetation planning controls. DELWP could consider running a series of information sessions for planning enforcement officers that could increase their knowledge base.

- In addition, Council welcomes the introduction of clearer direction for Councils on enforcement tools, strategies and capacity as well as potential for support from State level (DELWP?). Such directions should stipulate effective Local Laws that are complementary/supportive of the state controls.

- Council would welcome a review of the existing fines to review if they are commensurate with the impact/value of vegetation and whether they act as a deterrent and cover the conditions and/or costs of rehabilitation (if possible?)

- Councils require greater clarity and direction on standards for the rehabilitation of sites following successful enforcement.

- Council would like to see a review of whether the current VCAT system of planning enforcement is realistic for non-compliance?