

Outcomes of Review of the Native Vegetation Clearing Regulations

Submission on behalf of Macedon Ranges Shire Council

INTRODUCTION

Thank you for the opportunity to make a submission about the outcomes of the Review of Native Vegetation Clearing Regulations conducted in 2015. This submission was endorsed by Council at an Ordinary Council Meeting on 22 February 2017.

Council's submission to the Review in May 2016 provided an overview of the shire's biodiversity, a summary of Council's views about the strengths and weaknesses of the current regulatory system and a response to the improvements proposed. This current submission should be read in conjunction with the comments made by Council in 2016.

SUMMARY OF FEEDBACK

Overall Council is of the view that, while the proposed changes generally improve on the existing provisions, many additional improvements could be made to simplify the application process for applicants, to ensure protection of threatened species and to limit incremental loss of native vegetation (and by extension incremental loss of biodiversity) across the landscape. A preferred approach involves applying two assessment pathways, re-instating the goal to achieve a "*net gain* in extent and quality of *native vegetation*" and ensuring all applications demonstrate how they have avoided and minimised loss of vegetation prior to identifying an offset strategy.

Council is pleased that the State Government will be developing a monitoring and reporting plan as well as a compliance strategy. These programs have been promised for many years and are critical to effective regulation of native vegetation removal. These strategies should ensure the State Government takes a lead role in monitoring and enforcing the State's regulations while minimising the administrative and resource burden to local government. Council looks forward to providing input into these plans and strategies in the future.

SUMMARY OF NATIVE VEGETATION APPLICATIONS IN MACEDON RANGES

On average Council receives approximately 50 planning permit applications annually for removal of native vegetation triggered by Clause 52.17 of the planning scheme. It is estimated that less than half these applications involve removal of a "large tree" as defined in the proposed assessment guidelines.

Council's Environmental Planner works with applicants to avoid and minimise removal of native vegetation where possible. As a result Council is able to minimise the amount of vegetation proposed to be removed so that most planning permit applications involve removal of less than 1,000m² of vegetation classified as a remnant patch, or less than 5 scattered trees.

As most of the shire is currently within Location A, most applications for removal of native vegetation are assessed via the low risk pathway.

PROPOSED CHANGES SUPPORTED BY COUNCIL

- The proposed changes to the exemptions in Clause 52.17 for fences, emergency works and planted vegetation provide improved clarity.
- Reduction of the threshold for the high risk / detailed assessment pathway from clearance of more than 10,000m² to 5,000m².
- Development of a monitoring and reporting plan which is critical to effective implementation of any proposed native vegetation regulations as well as the State Government's biodiversity strategy.
- Development of an Assessment Handbook relevant to applicants and decision makers.
- Proposal to update the location map to improve its accuracy.
- Provision for site based information to supplement mapped information.

PROPOSED CHANGES NOT SUPPORTED BY COUNCIL

- Retention of the reference to "no net loss of *biodiversity*" which is difficult to quantify and measure compared to the *quality and extent of native vegetation*.
- Retention of three assessment pathways. This retains unnecessary complexity, especially given the similarities between the basic and intermediate assessment pathways.
- The requirement for proposals to avoid and minimise impacts *from the removal of native vegetation on biodiversity values* as described at Section 4.6.1 of the *Assessment Guidelines*, as opposed to simply avoiding and minimising *removal of native vegetation*. The proposed policy wording is over complicated and would be difficult for applicants to interpret and apply.
- The assumption that applications under the basic assessment pathway have a minimal impact on biodiversity and, therefore, do not need to demonstrate how they have avoided or minimised impacts on biodiversity. Based on the thresholds proposed, the exemption would allow 7 scattered trees or up to 5,000m² of native vegetation without "large trees" to be cleared without exploring opportunities to avoid this clearance. Where opportunity exists to retain native vegetation, this should occur.
- Use of the EVC "large tree" benchmarks to determine which assessment pathway applies to an application. This approach is unnecessarily complex and difficult to implement for "mum and dad" planning permit applicants who are not likely to know which EVC their property is within or how to access to relevant EVC benchmark document. As a result, Council staff are likely to be more highly involved in pre-application discussions with land owners and in assisting land owners to prepare the necessary information to support their planning permit application.
- Requirement for the Secretary of DELWP to approve use of on-site information when making decisions about native vegetation removal. This is not practical in the context of statutory timeframes for planning permit applications.
- The inability to consider the presence of rare or threatened species observed on site under the basic and intermediate assessment pathways.

RECOMMENDED IMPROVEMENTS

- Replace the three assessment pathways with two pathways: basic and detailed. Apply the “intermediate” application requirements and decision guidelines listed in the proposed *Assessment Guidelines* to this basic pathway.
- Apply the basic assessment pathway to applications for removal of up to 1,000m² of native vegetation or 5 scattered trees with a DBH of 40cm.
- Apply the detailed assessment pathway to all other applications.
- Require all applications to demonstrate that they have avoided and minimised *removal of native vegetation* prior to considering offset options, regardless of the assessment pathway.
- Re-instate the goal from *A Framework for Action* from 2002 to achieve a “*net gain* in extent and quality of *native vegetation*”.
- Enable on-site information to inform decision making without DELWP Secretary approval, including the presence of rare or threatened species.
- Update the exemption for vegetation along fence lines at Clause 52.48-2 (Bushfire Protection: Exemptions) as per the proposed exemption for Clause 52.17 (Native Vegetation).
- Develop an efficient process to update the location map, including a simple process for councils to submit requests for changes.