Submission to the Review of the Native Vegetation Clearing Regulations

INTRODUCTION

The Plenty Valley Conservation Group was unaware until recently of the DELWP Review of the native vegetation clearing regulations Consultation Paper and so was unable to contribute to the earlier stage of this Review. This submission addresses some fundamental issues not adequately addressed in the current Consultation paper, as well as responding to its particulars.

PLENTY VALLEY CONSERVATION GROUP CREDENTIALS

PVCG was formed in 1971 and has focused its attention for 45 years on advocacy of the environmental, cultural and heritage assets of the Plenty Valley and the protection, restoration and enhancement of these assets to both PVCG members and the wider community.

PVCG has a long history of involvement in environmental and heritage conservation issues in its home region, the City of Whittlesea. For many years PVCG members have provided input into planning and other related issues at the City of Whittlesea. PVCG has also been represented on Cultural Heritage Committees, Tourism Committees, Planning Forums, including its involvement in the protection of the Plenty Gorge. PVCG has also made submissions to many major environmental and planning reviews including the RL111 amendment that led to the establishment of a rural conservation zone (RCZ) to protect the large areas of red gum habitat in the City of Whittlesea’s north. PVCG members have served on public conservation committees at State and Local Government levels over several decades including the City of Whittlesea Conservation Committee, from the formation in 1991, its renaming as Sustainability Programs Advisory Committee, until its disbanding some 3 or 4 years ago.
SCOPE OF PVCG SUBMISSION

PVCG is deeply concerned about the effect of the present policy and its proposed changes on the unique environment, habitat and landscape of the basalt plains region to the north-west of Melbourne. Our submission is directed to these issues.

The City of Whittlesea (CoW) is a major urban growth municipality that encompasses most of the remaining remnant of the basalt plains red gum woodland in the state of Victoria. This remnant has high to very high conservation status, requiring, we understand, high risk pathway assessment. This remnant includes, though it is more extensive than, the rural conservation zone (RCZ) which now has an environmental significance overlay (ESO). It consists largely of Plains Grassy Woodland, which is endangered. The RCZ covers only part of the red gum basalt plains, namely that contained within the boundaries of the urban growth corridor that was the subject of the RL111 amendment panel hearings. The land to the corridor’s west, at the time designated a green corridor, was deemed to not need specific red gum conservation measures. Subsequently rezoned for development, this latter area, north of Epping, is now undergoing urban development that has seen the destruction of large numbers of large old red gums.

This submission considers the implications of the offset policy for our region and municipality. The PVCG believes that the offset policy that is intended to permanently secure the replacement of these cleared 300 to 700 year old red gums is not achieving its ‘no net loss’ objective. PVCG respectfully submits the following points for your consideration.

1. NO NET LOSS

Native Vegetation Clearing Policy ‘No net loss’ objective, 1.1.1. , (p. 12)

The ‘no net loss’ objective can only fully succeed, where clearing is permitted, when the compensating offset is required to replace the equivalent landscape value.

1.1.2 (p. 13) notes the importance of ‘preserving landscape values and amenity’.

Achieving this objective depends on preserving ‘like for like’ provisions, on avoiding fragmentation and sourcing locally where possible.

Avoiding fragmentation:
As areas of this ancient basalt landscape are cleared for development, the aim should be to covenant an offset landscape as a whole, rather than in fragmented form. Individual trees or scattered small patches of trees, either in small urban spaces or on open country, can preserve only fragments of the lost landscape. For example, an expanse of several hectares of red gum woodland should be replaced by a similar size and expanse of red gum
woodland if its heritage value and environmental significance are to be adequately compensated. The 'pooling' of offsets described in 4.1.2 may assist in securing larger areas of offset vegetation.

'Like-for-like' provisions:

Maintaining the integrity of a landscape also depends on 'like-for-like' provisions originally developed in the Native Vegetation Management Framework - A Framework for Action (2002). Subsequently, the new native vegetation Guidelines weakened this requirement. PVCG expresses its disappointment that the 'like for like' provision of the Framework was not restored in this current review.

Restoration of the 'like for like' requirement for significant, high risk vegetation also involves the local sourcing of offsets.

Local sourcing of offsets:

Offset compensation should be sourced locally where possible, e.g. basalt plains red gums should not be replaced by covenanted red gums on the Murray. Even though the same species is involved, climate, habitat and landscape values are significantly different.

The integrity of specific landscape needs to be respected, if this unique and environmentally highly valued landscape is to be preserved for the next century and onwards.

2. OFFSETS ON CROWN LAND

Offset Delivery, 4.2.4 and Proposed Improvement 20 (pp. 34 and 35) 'Create a framework for offsetting on Crown land'.

Offsets on public land: 'virtual offsets'
The ability under the current and proposed policy to offset trees on Crown land that is already managed or set aside for conservation means that the loss of trees removed for development is absolute loss, since they are replaced by trees which are already protected and managed for conservation. Offsets on publicly owned land that is managed for conservation do not mitigate the net loss of the vegetation cleared nor do they compensate for impacts. They are 'virtual offsets' in which vegetation already being effectively conserved is claimed as a conservation offset.

Unless this fundamental flaw in the offset policy is addressed, the current offset policy will continue to be ineffective in providing genuine replacements for areas of vegetation, and specifically its very large old red gums lost to development in the basalt plains region to Melbourne's north. Trees will continue to be destroyed, and environmentally significant landscapes and habitats lost, while the total area managed for conservation remains relatively
static, and largely limited to public land. So poorly has the offsets policy functioned in this municipality that members are not aware of any offsets on private land in the basalt plains region.

The replacement and securing of large old red gums lost to permitted clearing should not take place on Crown reserves unless it can be demonstrated that those lands are under current or future threat. PVCG urges DELWP to review as a matter of urgency the regulations in regard to the covenanting of offsets on Crown land already managed for conservation, where there is no or minimal threat to the environment, a practice which results in no net gain, or even equivalence, for the state of Victoria, but actual real loss.

**Loss of potential to create genuine offsets**

By siphoning off offsets to land that is already publicly owned and managed for conservation, the potential to create genuine offsets on land currently being managed for purposes other than conservation is lost. The disappearance of the red gum landscape and habitat under pressure of development will continue, without any real compensation for, or increase in, the number of trees or areas protected.

### 3. SECTION 173 AGREEMENTS

**Offset Delivery 4.2.2 (pp. 32-3)**

The review appears to question the viability of Section 173s agreements, established and monitored by Councils. Proposed improvement 18 (p. 35) requires that all third party offsets be registered on the Credit Register, which is currently only open to Section 69 Agreements and Trust for Nature covenants.

If this restriction should effectively abolish Section 173 agreements, it would remove flexibility and create a disincentive for landowners.

With Section 69 Agreements, payment is up front by the permit holder, and is then released over 10 years by DELWP to the offset provider (landowner), but the accrued interest from offset funds held in the interim is not provided to the landowner who must bear the financial burden of rising management costs. These could treble in a ten-year period. This is a major disincentive to landowners.

Councils such as CoW that have operated a payment-in-lieu scheme requiring up front offset developer contributions can envisage for their long term strategy that the interest generated from sums collected and invested may cover management costs in perpetuity.

Even though the ideal is a self-managing offset by the end of 10 years, in reality there are ongoing associated costs such as invading weed management, replanting of understory vegetation, repairs and eventual replacement of fencing, etc., and at an increasingly higher cost. Landowners, like Councils, should be able to use their offset payment, and interest earned,
to better prepare themselves to maintain their financial commitment. Section 173 agreements give greater flexibility to offset providers, by providing a hedge against cost inflation by allowing them to financially manage the offset sum received and to use interest gained to ensure the viability of long term management of the offset.

Landowners are very willing to discount their labour costs, and indeed must do so if they wish to be competitive in the market. As a result, landowners who find they can no longer donate their free labour, e.g. through age or disability or relocation, are at a serious financial disadvantage when forced to hire labour to maintain an offset. Section 173 agreements therefore provide an incentive to landowners who would or could not otherwise consider a Section 69 or other agreement that requires them to continue putting in ‘free’ labour to the end of the 10 year period.

4. MONITORING AND AUDITING OF OFFSETS

Section 4 Offset delivery (pp. 32-4) and proposed improvement 18 (p.35)

Monitoring:
The consultation paper proposes (proposed improvement 18) that all third party offsets are registered in the Credit Register. It seems to suggest that monitoring of offset management by local councils is less than effective.

While PVCG supports the tracking and monitoring of offset trades, it believes that monitoring at the local level, with auditing oversight by DELWP, would be effective. The environmental arm of DELWP has been subject to significant funding cuts in recent years, making it unlikely that it now has the funds or personnel to monitor, on the ground, management outcomes locally and in far flung regions of Victoria. Logically it is the local Council that better knows its district management issues, and can more efficiently monitor outcomes. The City of Whittlesea, for example, has a rate rebate scheme for land management and conservation that conducts biennial property inspections for participants.

Councils have complained that they cannot afford monitoring. But why should they pay for it? On the user-pays principle, the permit holder should pay a levy, either directly to Council or via DELWP, for ongoing monitoring that would cover the additional staff and time costs. In the case of City of Whittlesea, monitoring costs were built into developer payments-in-lieu. A similar monitoring cost could be charged to permit holders for Section 173 agreements. Given the sums involved in offset transactions, the additional staff time and cost needed per annum to allow monitoring would be a relatively small cost to permit holders.

Responsible auditing:
PVCG submits that if a responsible system of auditing and monitoring were put in place, requiring Councils to submit to DELWP an annual audit of offset transactions and review of offset management, DELWPS's role in tracking and overseeing could efficiently embrace all offset transactions including Section 173 agreements.

At present there is no annual audit system for Councils that trade in offsets to ensure their compliance with obtaining offsets and their accountability for expending developer contributions. Councils should be required to prepare and provide to DELWP, and make public, an annual audit of finances associated with the offset process as well as compliance with offset obligations.

**Public scrutiny:**

Native vegetation is a community asset, and its significance for biodiversity a matter of State control and community concern.

Lack of public scrutiny leaves a process open to non-compliance. The process of offsets should be open and transparent, from the valuation of native vegetation assets and the pricing of trades, the levies charged to developers, the expenditure of offset levies, the suitability of offset sites and compliance with management obligations. PVCG commends in relation to this issue City of Whittlesea's commitment, in its official offsets policy, *Native Vegetation Offset Plan*, December 2014, to 'clear and transparent [financial management] in regard both to the pricing of offsets and to offset funds and their interest.' (CoW, NVOP, p. 298).

**Mandatory time limits:**

PVCG supports the requirement to secure offsets before clearing (4.1.3 *Offsetting at the time of clearing*, p. 32). In existing cases where permits have been granted before the offset was obtained, a mandatory time limit of one year to action the offset should be enforced.

**CONCLUSION**

In conclusion, PVCG has, in this submission, emphasised the importance of issues relating to 'no net loss', to offsets on Crown land, to Section 173 agreements and to monitoring and auditing of offsets.

PVCG thanks the Department of Environment, Land, Water and Planning for the opportunity to make this submission.

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