

City of Whittlesea's Response to the Review of the Native Vegetation Clearing Regulations

- Phase 3 – Release of system changes for public comment

On 21 December 2013, the Victorian Government introduced the Victorian Native Vegetation Permitted Clearing Regulations that replaced the former Victorian Native Vegetation Management: A Framework for Action. In May 2015, the Department of Environment, Land, Water and Planning (DELWP) started the first phase of the review process, gathering information on the regulations through consultation from stakeholder and community workshops, surveys and one on one meetings with key groups. Based on information gathered during Phase 1, DELWP then developed the “*Review of the native vegetation clearing regulations – Consultation Paper*” that was released on Thursday 17th March 2016. This paper summarised the key issues with the native vegetation clearing regulations that were identified through public consultation and set out the proposed improvements to each of those key issues. The City of Whittlesea previously submitted a response to DELWP on this Phase 2 consultation paper on 27 April 2016.

The Department of Environment, Land, Water and Planning (DELWP) has now entered Phase 3 of the review process and has released the proposed changes to the Victorian Planning Provisions (VPP) and draft *Native Vegetation Assessment Guidelines* that were developed using the ideas and views gathered during the Phase 2 consultation process. These include specific changes to clauses in the VPP and key changes in the new incorporated document. Collectively these are termed as the ‘system changes’. Other changes are proposed for on-going improvements for those actions that are independent of the VPP. The changes are described in the following documents:

- *Summary of proposed amendment to the Victorian Planning Provisions – Review of the native vegetation clearing regulations* (DELWP November 2016);
- *Outcomes report – Review of the native vegetation clearing regulations* (DELWP November 2016); and
- *Native vegetation clearing: Assessment Guidelines* (DELWP, Draft November 2016).

The system changes have been released for public comment and all interested stakeholders have been invited to review to review the Outcomes Report and other associated documents and provide feedback to DELWP by 8 March 2017.

On the whole, the City of Whittlesea is generally supportive of the majority of improvements proposed within the six main themes and 29 proposed changes outlined within the Native Vegetation Regulations outcomes report. We have welcomed the extensive consultation that has occurred and acknowledge that many of the proposed changes reflect feedback you’ve received during this process. The City of Whittlesea’s response has also incorporated the comments and viewed from the LG Pro submission that is prepared with input and expertise from the LG Pro Biodiversity Planning Network Special Interest Group (BPN SIG). Our response to each proposed change is provided below.

City of Whittlesea's assessment of the proposed improvements to Victoria's Native Vegetation Clearing Regulations: Phase 3 comments

| Proposed Improvement | Implementation | City of Whittlesea Comments Do you think the proposed changes to the regulatory system are functional and able to be implemented? Are you aware of any issue that may impact on implementation? |
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| Theme: Native Vegetation Clearing Policy | | |
| <p>Proposed Improvement # 1 - <i>Clarify that the primary focus of the regulations is to ensure avoidance of native vegetation removal where possible.</i></p> | <p>Implemented by the following objectives in the SPPF:</p> <ul style="list-style-type: none"> • Ensure appropriate consideration of impacts from the removal, destruction or lopping of native vegetation. • Ensure permitted clearing of native vegetation results in no net loss to biodiversity. <p>Clarifying the three step approach in the purpose to Clauses 52.16 and 52.17:</p> <ul style="list-style-type: none"> • Avoid the removal, destruction or lopping of native vegetation. • Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided. • Provide an offset if a permit is granted to remove, destroy or lop native vegetation. <p>This includes an increased focus on avoiding and minimising in areas where the values of the native vegetation are high, and where these values can be maintained in the future.</p> | <ul style="list-style-type: none"> • The City of Whittlesea strongly supports the improvement to ensure that the primary focus of the native vegetation regulations is to encourage avoidance of native vegetation. However, Council believes that this proposed improvement does not go far enough and that avoidance of native vegetation should be the first step in <u>all cases</u> and not just in those where the value of native vegetation is deemed to be high. Council believes that it should be a requirement of all permit applicants to clearly show evidence that they implemented the three step approach of avoid, minimise and offset. • How will the 'no net loss' objective of the clearing regulations contribute to the overarching goal of 'net gain' as outlined within the draft biodiversity plan: Protecting Victoria's Environment - Biodiversity 2036 if avoidance of native vegetation is not required as the first step in all native vegetation clearing proposals. |
| <p>Proposed Improvement # 2 - <i>Consolidate comprehensive policy guidance for native vegetation removal.</i></p> | <p>Implemented through the Assessment guidelines that detail which impacts on biodiversity and other values of native vegetation are to be considered in the different assessment pathways.</p> | <ul style="list-style-type: none"> • The City of Whittlesea would welcome consolidated policy guidance for native vegetation removal that will help our decision making with a reference point to guide our work. • Policy guidance should be provided within a policy section of the SPPF, not only in a guidance document (the handbook). |
| Theme: Permit process and decision making | | |
| <p>Proposed Improvement # 5 - <i>Reduce the low risk-based pathway threshold.</i></p> | <p>Implemented by adopting a clearing threshold of 0.5 hectares to determine assessment pathway as detailed in the Assessment guidelines.</p> <p>The assessment pathway for an application is determined based on extent, the presence of large trees, sensitive wetlands and coastal areas, rare or threatened species habitat and endangered EVCs.</p> | <ul style="list-style-type: none"> • The City of Whittlesea is supportive of the clearing thresholds being reduced for 'lower' assessment pathways (now termed Basic and intermediate), however, Council would like to know what the scientific basis is for the selection of 0.5 ha? The logic behind this threshold should be available and clearly articulated. • Some regions across the state have a higher loss of native vegetation than other regions due to land use history. Is 0.5 ha still appropriate in areas which are predominantly cleared already? Some Councils previously recommended that 0.2 ha is an appropriate low threshold. • Without the incorporation of site based information, how can we be certain that development in the lower risk pathways (i.e. the removal of up to 0.5 ha) will not have a significant impact on threatened species and therefore only general offsets are required? The reliance on modelled information to provide the values associated with this amount of native vegetation removal and fauna habitat is very worrying at a local, regional and state scale. Recommend the requirement that all applications include site based information that is collected by a suitably qualified professional. • Councils should have the ability to refuse applications in the basic and intermediate pathways, particularly if the applicant has not tried to avoid and minimise vegetation loss. • The determination of whether LOTs will be impacted (and how many) will place additional resource burdens on Councils as environmental planners will need to go out to each site to ensure that all LOTs are accounted for. This burden should be placed on the permit applicant through the engagement of a suitably qualified contractor. • NVIM aerial does not work at a site scale to accurately identify the location of trees. This will cause issues when mapping scattered trees, where any area of overlap is removed from the calculations of extent. Council does not support the area of overlap being (extent in hectares) removed from the calculations when determining the assessment pathway. Extent in these cases is being used as a surrogate for the |

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| | | <p>number of trees and therefore, the full value of each tree must be utilised.</p> <ul style="list-style-type: none"> • Additional burdens passed on to Council’s Environmental planners - Environmental Planners will now also need to be accredited vegetation assessors if Council are going to have the ability to contest whether an Endangered EVC is considered to be present or not. What kind of training/assistance will DELWP provide Councils to ensure that all environmental planners are adequately equipped to with knowledge and skills to do this? • Given the reliance on the EVC modelling and EVC conservation status in the determination of the assessment pathways, DELWP must urgently undertake a review to ensure that planning decisions regarding any proposed removal of native vegetation are based on sound data. |
| <p>Proposed Improvement # 6 - <i>Replace the native vegetation location risk map with an updated map of highly localised habitats.</i></p> | <p>Implemented by replacing the location risk map with a location map that is described in the Assessment guidelines. It identifies areas based on their importance using mapped biodiversity values, including highly localised habitats, rare or threatened species habitat, endangered EVCs, and sensitive wetlands and coastal areas.</p> | <ul style="list-style-type: none"> • Council is supportive of the removal of the location risk map but would like further information on how the map of the highly localised habitats would better protect biodiversity and native vegetation. • Council is very supportive of the recent inclusion of new VBA data but concerned that the on-going delays in regularly updating this information will cause on-going issues with the accuracy and use of this map. Updates to the VBA and then subsequently the modelling must be made more regular. • Modelling is not sufficient to identify areas of importance and on-ground data collection on rare and threatened species must be undertaken to back up the models . <ul style="list-style-type: none"> ○ less consultants = less data being collected = less knowledge of rare and threatened species. • The VBA must be promoted and made more user friendly so that contributors can easily submit records / data submission used within the modelling. • More information is needed for determining rare/threatened species habitat, and how this data can be added or challenged where the species are found on site but not mapped in state databases. • EVC modelling must be reviewed and updated since there is more reliance on this model now to determine the assessment pathways of applications. Also EVC conservation status must be reviewed and updated. |
| <p>Proposed Improvement # 7 - <i>Require an avoid and minimisation statement for all applications and consider this in decision making.</i></p> | <p>Implemented by amending the application requirements in Clauses 52.16 and 52.17 to require an avoid and minimisation statement. The Assessment guidelines provide details on the values of native vegetation and how and when impacts on these values should be avoided and minimised to ensure proportionality. They also outline what is an acceptable avoid and minimisation statement, and specify that avoidance of biodiversity impacts is not required for applications in the Basic Assessment Pathway. More information on how to prepare this statement will be included in guidance material for applicants.</p> | <ul style="list-style-type: none"> • The City of Whittlesea strongly supports the improvement to ensure that the primary focus of the native vegetation regulations is to encourage avoidance of native vegetation. However, Council believes that this proposed improvement does not go far enough and that an avoidance and minimise statement must be required for all applications and not just intermediate and detailed. Council believes that it should be a requirement of all permit applicants to clearly show evidence that they implemented the three step approach of avoid, minimise and offset. Applications in the basic pathway must include an avoid and minimise statement and Council should have the right to refuse an application in the lower pathways if they have not shown these steps. • How will the ‘no net loss’ objective of the clearing regulations contribute to the overarching goal of ‘net gain’ as outlined within the draft biodiversity plan: Protecting Victoria’s Environment - Biodiversity 2036 if avoidance of native vegetation is not required as the first step in all native vegetation clearing proposals. |
| <p>Proposed Improvement # 8 - <i>Require an offset strategy for all applications and consider this in decision-making.</i></p> | <p>Implemented by amending the application requirements in Clauses 52.16 and 52.17 to include the requirement for an offset statement for all applications. The Assessment guidelines outline that this statement would briefly describe how the offset will be secured e.g. by purchasing an available credit or establishing a new offset site. More information on how to prepare this statement will be included in guidance material for applicants.</p> | <ul style="list-style-type: none"> • The City of Whittlesea supports this improvement that an offset strategy must be included in an application and be considered in decision making. • A strategy should identify the source and sufficient detail to demonstrate that it is available and meets the offset requirement. • The guidance material for applicants and the assessment handbook are not yet available, so we cannot review. |
| <p>Proposed Improvement # 9 - <i>Change to two pathways, a ‘lower assessment pathway’ and a ‘higher assessment pathway’.</i></p> | <p>Not implemented. Two pathways were investigated, but to ensure that the assessment effort is commensurate with impacts on the values of native vegetation, three new assessment pathways were developed (Basic, Intermediate and Detailed). These are described in the</p> | <ul style="list-style-type: none"> • Not implemented. |

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| | Assessment guidelines. | |
| Proposed Improvement # 10 - <i>Provide clearer guidance on when to refuse an application to remove native vegetation.</i> | Implemented by including requirements on how impacts on the values of native are to be assessed in the different assessment pathways in the Assessment guidelines. Further information will be provided in the Assessment handbook for responsible and referral authorities. | <ul style="list-style-type: none"> The City of Whittlesea welcomes this but we have not been provided with enough details to understand how and when we can object. Can we refuse on ground of biodiversity and/or other matters? Refusal should be able to be made on local values and not just where values are considered to be of a state scale. |
| Proposed Improvement # 11 - <i>Include a decision guideline that allows Councils to consider locally important biodiversity when assessing applications</i> | Implemented by including within the Assessment guidelines (and to be included in the Assessment handbook) that consideration must be given to the local and state planning policy frameworks. A new decision guideline has not been included in Clauses 52.16 and 52.17 as this requirement is already included in Clause 65 and duplication was not considered good regulatory practice. | <ul style="list-style-type: none"> Whittlesea is highly supportive of measures that allow councils to accurately assess biodiversity values at a local level, and consider these values in our assessment of permits. This has been shown to be highly important for the City of Whittlesea. Council push local objectives through the Red Gum Protection Policy. This policy is working generally well to retain Red Gums in urban areas / parks with an overall success of c. 80%. Planners actively engage with developers to ensure this is implemented. Locally important biodiversity should also include EVC type, rarity and depletion, rare and threatened species, waterways and other landscape features. Further assistance from DELWP with strategic planning should clearly articulate how local biodiversity of importance should be referenced in local planning scheme(s) to provide increased protection. |
| Theme: Biodiversity information tools used in decision making and offset rules | | |
| Proposed Improvement # 12 - <i>Allow habitat characteristic information collected at the site to be used to supplement the maps of a species habitat in the permit application process and for offset sites</i> | Implemented by providing for site information to be used to supplement mapped habitat assessments as detailed in the Assessment guidelines. This provision can be used to remove specific offset requirements for clearing sites and to add specific credits at offset sites under certain circumstances. Detail of how and when this can be done and the approval process will be included in the Assessment handbook and guidance for applicants. | <ul style="list-style-type: none"> Highly supportive of this but it is not clear at this stage how site specific data can override the modelled data – what is the process and when can it be used? Site collected data must be able to inform all assessment pathways, the habitat importance maps and basic information on vegetation extent and condition. A model can not replace site collected data but should be used as an additional tool. Models are only as good as the data that goes into them which, we all know currently is not sufficient to have full confidence in the results. DELWP must consistently allow supplementation of information about habitat and species at the site with accurate and up to date records, regardless of their presence in State databases. Sources of information that will be accepted and will withstand challenges, such as VCAT, must be clarified. Planners should be able to supplement information about habitat and species at the site with accurate and up to date records, regardless of their presence in state databases; need clarity on what sources of information will be accepted and will withstand challenges such as VCAT. |
| Proposed Improvement # 13 - <i>Increase the information available about the maps used in the regulations and improve their accessibility.</i> | Implement by publishing Native vegetation clearing - biodiversity information products that describes the method used to create the maps and how they are used in the regulations. This will also provide details on how to access the maps and how they may be updated in the future. | <ul style="list-style-type: none"> Essential – As users, Council staff must understand the information contained in the models, how those models were derived and thus how they inform the regulatory process. Logic behind the models must be clearly articulated. The process, including timeframes, for requesting amendments to biodiversity information tools must be formalised and clarified. Continuous improvements in the models necessary and the time lag in updating the VBA data is an important issue – threatened species records go into developing models. General use of the VBA is also an issue. Our experience at Council is that many people (other than consultants) are reluctant to use this database and will opt for other databases such as the ‘Atlas of Living Australia’ or other databases that are more user friendly. Less site based surveys, less data being submitted. DELWP must undertake regular updates of flora, fauna and habitat data used for decision making via input to the Victorian Biodiversity Atlas (VBA) or future systems Peer reviews of the results of the models are critical to ensure they accurately reflect habitat and species |
| Proposed Improvement # 14 - <i>Place greater emphasis on key areas of habitat for dispersed species in decision-making and offset requirements.</i> | Implemented by including more important areas of dispersed species habitat in the location map and including these areas in the specific – general offset test to determine when specific offsets are required. | <ul style="list-style-type: none"> The City of Whittlesea is supportive but welcomes more information on how this will be achieved. Data must be collected to inform this model and ability to submit site based information. Usability of the VBA and lag time in updating data is an issue. ‘habitat for dispersed species’ needs to be in glossary |
| Proposed Improvement # 15 - | Implemented in Clauses 52.16 and 52.17 and Assessment guidelines. | <ul style="list-style-type: none"> Council welcomes the ability to differentiate between size / age classes of trees but the differentiation |

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| <p><i>Differentiate between the biodiversity value of scattered trees for use in decision making and offset requirement determination.</i></p> | <p>Scattered trees are divided into two size classes, small and large. A small scattered tree is assigned a standard extent defined by a circle with a 10 metre radius and a large scattered tree is assigned a standard extent defined by a circle with a 15 metre radius.</p> <p>In addition, clearing of large trees is used to determine the assessment pathway of an application. This is considered in decision making and when removal of native vegetation is permitted the secured offset must also contain at least one large tree for each large tree removed.</p> | <p>should also include Medium Old Trees (MOTs) and Very Large Old Tree (VLOTs) and not just small or large. LOTs are assigned an extent based on the figure of 15 m radius but this is not sufficient to account for VLOTs. The ecological and habitat function between very large and large old trees must be appropriately identified and used to determine assessment pathways and offset requirements. Further, MOTs may have habitat components (hollows) that are undervalued when placing them in the small tree category. We must provide recognition for all old hollow bearing trees that provide a critical ecological and ecosystem function that young trees do not provide.</p> <ul style="list-style-type: none"> • Supportive that the loss of large trees should always be offset with the protection of other large trees. Large trees should never be offset through the replacement by small trees/revegetation- this is not ecologically sound. The time lag to realise the ecological and ecosystem function of large trees is too long if offset by small trees. • Council does not support that area of overlap in the extent of scattered trees be taken out of the calculations. This undermines the importance of the loss of these trees. Under the current system of BEUs, the City of Whittlesea is seeing the loss of large scattered large trees being severely undermined by small BEU obligations – this is not sufficient and significantly undermines their ecological value. • Loss of scattered trees should be offset always in a local context – and not met BEU’s anywhere across the Catchment area. • The determination of whether LOTs will be impacted (and how many) will place additional resource burdens on Councils as environmental planners will need to go out to each site to ensure that all LOTs are accounted for. This burden should be placed on the permit applicant through the engagement of a suitably qualified contractor. • NVIM aerial does not work at a site scale to accurately identify the location of trees. This will cause issues when mapping scattered trees, where any area of overlap is removed from the calculations of extent. Council does not support the area of overlap being (extent in hectares) removed from the calculations when determining the assessment pathway. Extent in these cases is being used as a surrogate for the number of trees and therefore, the full value of each tree must be utilised. |
| <p>Theme: Exemptions</p> | | |
| <p>Proposed Improvement # 22 - Clarify wording of exemptions</p> | <p>Implemented by updating the exemptions included in Clauses 52.16 and 52.17. Main changes include text revisions to improve clarity, amendment of the Utilities exemption and the introduction of a new Conservation work exemption.</p> | <ul style="list-style-type: none"> • Wording of exemptions needs to be clear enough for compliance purposes – terms like ‘deliberately destroyed’ require officers to prove intent; better to say ‘illegally cleared’. • Need a clear statement that it is the responsibility of the person using an exemption to clarify the purpose and meaning of the exemption before clearing vegetation so that claiming an exemption is not an excuse for clearing protected vegetation. |
| <p>On-going improvements (these are independent of the VPP changes and delivery will be outlined through an implementation program)</p> | | |
| <p>Theme: Native Vegetation Clearing Policy</p> | | |
| <p>Proposed Improvement # 3 - Develop guidance to support strategic planning relating to native vegetation protection and management.</p> | <p>Implement by developing guidance e.g. a planning practice note to support strategic planning for native vegetation, in partnership with local government. This will include information on when strategic planning might be undertaken, what tools can be used, the information that is available and the roles and responsibilities of all parties involved.</p> | <ul style="list-style-type: none"> • Supported if guidance developed in consultation with local government. • Strategic planning to be reflected in the zoning and overlays - This will relate directly to where the Council has the resources to develop overlays and the information available to inform them. <ul style="list-style-type: none"> ○ Identify priority areas, connections etc. where vegetation removal would not be permitted. • Developing or updating environmental overlays is costly, time consuming and slow to get approved. Consequently, municipalities that support areas of significant environmental values worthy of protection, but that are constrained by relatively small budgets, do not have the option to develop environmental overlays necessary to protect local biodiversity assets. The City of Whittlesea is supportive of the BPN suggestion that the State Government support the development of local overlays that protect local and regional biodiversity by facilitating processes that help address these issues, such as: <ul style="list-style-type: none"> ○ reducing resources required to implement the process of planning scheme amendments. |

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| | | <ul style="list-style-type: none"> ○ adopting a new streamlined approval process to facilitate development and implementation of Environmental Significance Overlays ○ Providing templates and practical guidance to assist Local Government Authorities with creating and formatting amendments ● Decisions in strategic planning must also take into account the ability to incorporate local matters and not just those of State or Federal significance. ● The City of Whittlesea is also supports the BPN’s suggestion that the inclusion of climate change must be a serious consideration in strategic planning for biodiversity and should be incorporated into the guidance. Encouraging and supporting local government to undertake strategic planning at a local level to support resilience of ecosystems to climate change could be implemented through a strategy under clause 12 |
| <p>Proposed Improvement # 4 - <i>Improve monitoring to determine if the regulations are achieving their objective and make this information publicly available.</i></p> | <p>Implement by developing a monitoring and reporting plan in partnership with local government, and in consultation with other relevant stakeholders. This plan will include roles and responsibilities and efficient approaches to gather and report on native vegetation clearing and offsetting.</p> <p>Initially the plan will improve monitoring and reporting on:</p> <ul style="list-style-type: none"> ● permitted native vegetation clearing and offsets that are occurring (including linking clearing and offsets) ● levels of known non-compliance with the regulations, including with management of offset agreements ● gains in native vegetation that is occurring at offset sites. | <ul style="list-style-type: none"> ● The City of Whittlesea considers this to be critical and monitoring must be undertaken to collect data on losses and gains on offset sites from permitted clearing, non-permitted clearing (e.g. under BMOs, fence lines), MOU’s. This is a key component to determining whether the no net loss objectives of the clearing regulations are being met and their contribution to the overarching net gain objectives of the draft biodiversity plan. ● Council would like to know how DELWP plan to collect this information. A state-wide system which records and monitors all vegetation that is avoided or removed and offset is critical and should be implemented as a priority, ● What is the level of vegetation clearance associated with exemptions and how is this to be monitored? Is DELWP expecting local government to do this and how will be it funded? <ul style="list-style-type: none"> ○ Currently, the reporting of vegetation loss falls on local government. ○ There already is a tracking system for permits – retrofit for vegetation loss for stat planners. ○ Recommendation for mandatory GIS layers associated with area/number of trees – developers must submit with all applications? Or additional payment to Council for officers to complete? ○ aerial imagery analysis. Few Councils are doing this comprehensively. Whittlesea does on ad hoc basis only when time allows. ○ The monitoring could be funded through a developer payment that is incorporated into an application for planning permit to ensure that adequate monitoring occurs. ● Monitoring must be public, and image-based, not purely stats on what have been achieved. ● Objectives must be measurable and compliance for monitoring enforced. |
| Theme: Offset Delivery | | |
| <p>Proposed Improvement # 16 - <i>Increase the use and functionality of the credit register.</i></p> | <p>Implement by clarifying the roles and responsibilities for participants, increasing the information recorded in the Credit Register and making this available to councils, offset purchasers, offset providers and government investment programs. This includes:</p> <ul style="list-style-type: none"> ● increasing supply of offsets by registering potential sites before they are established so that offset providers do not incur the costs of setting up an offset site before they have a buyer ● linking offset and permit information for greater transparency ● recording first party offsets. | <ul style="list-style-type: none"> ● Very Supportive, making it easier for offset providers to register a site may increase the uptake locally. ● Currently, most general BEU offsets going to the west of Melbourne (Little River) – putting all our eggs in one basket is a worrying scenario. Loss of biodiversity locally. Strongly recommend that bioregional offsets be introduced or within the municipality. ● A central register for first party offsets is essential and must be undertaken as part of the improved monitoring to ensure that we’re meeting our no net loss target. Make the process of registering a first party offset easier. Whittlesea supports the BPN suggestion that the process for first party offsets is presently costly and time consuming for landholders; a streamlined approach is required to encourage involvement. The process should encourage first party offsets on properties that have the required habitat by making the process simpler. The proposed improvements should include an easy online system with a management plan approval process that is signed-off by DELWP. |
| <p>Proposed Improvement # 17 - <i>Support the development of the market for low availability offsets</i></p> | <p>Implement by working with conservation groups (including Trust for Nature) and other stakeholders to develop programs that identify potential offset providers, initially focused on offset types or locations</p> | <ul style="list-style-type: none"> ● If offsets aren’t available, then clearing should not occur. The opportunity for negotiation by applicants should not be provided in this instance. Negotiating these offsets contributes to the potential extinction of particular species and habitats. |

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| | <p>with low availability. Improve external access to species information to support identification of potential specific offsets.</p> <p>Increase use of over the counter agreements.</p> <p>Undertake a native vegetation offset market review to identify opportunities to improve its operation. This will be done in conjunction with the Department of Treasury and Finance and the Department of Economic Development, Jobs, Transport and Resources and in consultation with relevant stakeholders.</p> | <ul style="list-style-type: none"> • Specific offsets should also be required for sensitive wetlands, coastal areas, all endangered EVCs, LOTs - like for like. • Specific offsets should be required where threatened species are known to occur on site, even when the state wide database and modelling is not showing the species as occurring and/or habitat occurring on-site – there must be room to add new site collected data. • Reintroduce offsetting in the bioregion or ideally in the municipal boundary. CMA region too large and we are losing local biodiversity assets because offsets are generally going to the far west of Melbourne. |
| <p>Proposed Improvement # 18 - <i>Require that all third-party offsets are registered on the credit register and meet its standards, including standards for securing the offset.</i></p> | <p>Implement by requiring all third party offsets to be registered on the Credit Register, in order to track the trading and use of credits and so that the payment to the offset provider will be linked to the delivery of the offset management plan.</p> | <ul style="list-style-type: none"> • Very supportive, this is essential to ensure that all information is held in central database. This will provide Councils, State and community members with confidence that offsets are being achieved and directly linked to permits. • More transparency, monitoring and compliance is required. • Security arrangements should be standardised. • Cost of setting up offsets on the credit register are an issue. • Encourage larger strategic offsets to be established and delivered by third parties. |
| <p>Proposed Improvement # 19 - <i>Redesign the revegetation standards to ensure desirable revegetation can occur.</i></p> | <p>Implement by revising the revegetation standards so they encourage desirable revegetation by:</p> <ul style="list-style-type: none"> • modifying gain scoring to encourage revegetation in sites with scattered trees so these become patches • encouraging revegetation in areas well connected to remnant vegetation. | <ul style="list-style-type: none"> • Strongly supportive of a review and update to the revegetation standards. The standards must be comprehensive and encourage desirable revegetation: <ul style="list-style-type: none"> ○ consistent with current best practice in ecological restoration to ensure the structure of offset sites reflects the habitat lost from clearing as much as possible. ○ Revegetation for enhancement planting (understorey/overstorey); ○ Revegetation to fill gaps ; ○ Revegetation to buffer important habitat from surrounding land uses; ○ Revegetation to create short appropriate linkages between habitats. • Supportive that removal of large old trees can not be offset with a revegetation only option. • Minimise use of revegetation for offsetting - Revegetation does not have the ecological function and habitat components of remnant vegetation. • Local knowledge should always be incorporated into a regeneration solution. An end target for improvement in quality proposed that is appropriate to the EVC, i.e. some EVCs have naturally low diversity. • Propose a working group to develop these guidelines with representatives from all regions. |
| <p>Proposed Improvement # 20 - <i>Create a framework for offsetting on Crown land.</i></p> | <p>Implement by preparing a Crown land offsetting policy that includes:</p> <ul style="list-style-type: none"> • eligibility criteria • in-perpetuity security arrangements • ‘additionally’ measures that ensure the management actions are in addition to the statutory requirements for the management of the land. <p>Consideration will be given to potential impacts on the existing offset market and circumstances under which Crown land offsets may be purchased by third parties.</p> | <ul style="list-style-type: none"> • The City of Whittlesea is supportive but the offset must include the notion of ‘additionality’. The offset must value add to normal management activities. Land which is already protected and management by state government for conservation purposes should not be available for offsets. • Recruitment only offsets on strategically important Crown land is supported. Connecting patches. Augmenting areas of scattered trees etc. The City of Whittlesea has one recruitment only offset site on Crown Land along the Plenty River. Council has experienced difficulties in establishing a second offset site on Crown Land and would welcome a framework that set standards to be achieved. |
| <p>Theme: Exemptions</p> | | |

| Proposed Improvement | Implementation | City of Whittlesea Comments Do you think the proposed changes to the regulatory system are functional and able to be implemented? Are you aware of any issue that may impact on implementation? |
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| <p>Proposed Improvement # 21 - <i>Formalise a set of exemption purposes and principles</i></p> | <p>Implement by preparing guidance that details the purposes and principles for exemptions.</p> <p>DELWP will work with relevant stakeholders to develop cost effective approaches to record and report significant new permanent clearing, so that its impact on biodiversity is known and can be counterbalanced through native vegetation investment and management at a state-wide level. This will also include how the environmental impacts resulting from exemptions on public land are minimised and counterbalanced and the accountabilities for this reporting.</p> | <ul style="list-style-type: none"> • Use of exemptions should require notification to the responsible authority. • Essential. Guidance relating to exemptions should be provided within the revised Biodiversity Assessment Handbook, an incorporated document. Clear, concise explanations are required. They must be read as legally meaningful by legal advisers, community, interest groups . • What are the mechanisms by which the clearing under exemptions is minimised? What are the options? People who are considering clearing will need to make contact with a responsible authority to have this required of them. • How are the state government going to track losses from exemptions? We don't know what level of clearing is occurring under the exemptions. • Exemptions must be watertight so that vegetation removal allowed is clear and to the minimum extent. Consider exemption from permit but not exemption from offsets. How can be achieve the overall requirement of net gain in Victoria when we don't know the level of impact from clearing exemptions on biodiversity and therefore can not adequately compensate for the loss through other activities. • Although not covered in this review, of greatest concern are exemptions in 52.48; these are achieving huge losses that affect the target of 'no net loss' |
| <p>Proposed Improvement # 23 - <i>Provide guidance on the intent and application of exemptions.</i></p> | <p>Implement by preparing guidance on exemptions that describes the intent of the exemptions and how they should be applied.</p> | <ul style="list-style-type: none"> • Essential. Guidance relating to exemptions should be provided within the revised Biodiversity Assessment Handbook, an incorporated document. Clear, concise explanations are required. They must be read as legally meaningful by legal advisers, community, interest groups . • The City of Whittlesea reiterates the BPN's view that serious consideration must be given immediately to the interactions of Clause 52.48 Bushfire Exemptions and the impacts on native vegetation. Exemptions will continue to seriously compromise accurate assessment of the quantity of clearing of vegetation in Victoria's, and therefore the overall objectives of net gain or no net loss to Victoria's biodiversity. • Incorporate a checklist to ensure that non-exempt vegetation is not impacted: <ul style="list-style-type: none"> ○ Cl. 52.17 ○ FFG Act ○ EPBC Act • Support from DELWP to ensure compliance. • Wording of exemptions needs to be clear enough for compliance purposes – terms like 'deliberately destroyed' require officers to prove intent; better to say 'illegally cleared'. • Need a clear statement that it is the responsibility of the person using an exemption to clarify the purpose and meaning of the exemption before clearing vegetation so that claiming an exemption is not an excuse for clearing protected vegetation. |
| <p>Proposed Improvement # 24 - <i>Adopt a consistent approach to Agreements referenced in the exemptions.</i></p> | <p>Implement by developing a consistent approach for all agreements including:</p> <ul style="list-style-type: none"> • principles and content of the agreements • consistent definitions and terms • a standard level of consultation • making these agreements publicly available • recording and reporting new permanent clearing and offsetting that occurs under agreements. | <ul style="list-style-type: none"> • Strongly supportive. Current agreements open to interpretation as to what is allowed under them and what is not. Council continually get questions from Vic Roads staff as to what clearance is allowed under their agreement and what is not. This is not acceptable and must be clearly written to ensure there is no misunderstanding. • Essential need to report on vegetation loss under agreements and offsets must be secured. • Provide a clear, transparent and consistent approach to developing and implementing agreements referenced in the exemptions. |
| <p>Proposed Improvement # 25 - <i>Develop a compliance and enforcement strategy</i></p> | <p>Implement by preparing a risk-based compliance and enforcement strategy for councils to inform their compliance activities and including the development of compliance plans. The strategy will address education and behaviour change, enforcement tools, and identify roles and responsibilities. The strategy will provide guidance to allow compliance activities to be scaled depending on the resources of the</p> | <ul style="list-style-type: none"> • This is a high priority and supported by Council. • Propose to establish a working group to oversee that development of the strategy, with representation from all appropriate parties. • set some standards around dealing with rehabilitation post-unpermitted clearing. Minimum reparations for unpermitted clearing should be set to provide guidance to magistrates and vcat. First preference is to rehabilitate site then to secure offset equivalent to permitted clearing. Currently outcomes from illegal |

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| | regulator so that a focus is maintained on key compliance and enforcement risks. | <ul style="list-style-type: none"> • vegetation clearances can be negotiated with RA and can lead to reduced biodiversity outcomes • Fines must be commensurate with what is cleared. • Requirement to rehabilitate to previous condition and extent. • Need to shift from a system where it is cheaper to pay the PINs than it is to be compliant. Fines need to increase? • Dependant on Council resources to follow up on compliance, costs of consultant's reports, expert witnesses, etc. DELWP should have authority to direct RA to follow up known instances of non-compliance or undertake enforcement where Councils do not have sufficient resources. |
| Proposed Improvement # 26 - <i>Provide guidance and support materials for compliance and enforcement activities.</i> | DELWP in collaboration with councils will identify and develop key guidance and support material to build required skills and capabilities to assist the delivery of compliance and enforcement programs. This includes how to focus efforts based on risk, select the best compliance approach, collect information to assist in monitoring and enforcement, and develop appropriate responses to illegal clearing. | <ul style="list-style-type: none"> • DELWP should support and not just provide guidance. Collaborative effort with DELWP and Councils, with dedicated DELWP staff to implement enforcement activities and support Councils. • Training of staff. DELWP should engage with PEOA |
| Proposed Improvement # 27 - <i>Improve information gathering for compliance and enforcement</i> | DELWP will work with councils to gather and report on the level and drivers of illegal clearing and non-compliance with permit conditions(including the requirement to provide offsets). | <ul style="list-style-type: none"> • Dependant on Council resources to monitor levels of compliance and undertake enforcement. • Sufficient resources must be made available to undertake this, with the support of DELWP staff. • Recommend the Act is amended to have DELWP officers able to be authorised officers. <ul style="list-style-type: none"> ○ leadership from DELWP ○ more enforcement hitting the ground in priority areas. ○ aerial imagery analyses. |
| Proposed Improvement # 28 - <i>Promote co-regulatory support</i> | DELWP to work with councils, the Commonwealth Government and other relevant agencies to develop a co-operative approach to address non-compliance with the regulations, with a focus on activities that have significant impacts on biodiversity. | <ul style="list-style-type: none"> • Recommend the employment and resourcing of DELWP staff to assist with this work. • Work on interaction with Federal government. • Council ability variable between municipalities and within municipalities as priorities change. |
| Proposed Improvement # 29 - <i>Review the overarching compliance and enforcement framework</i> | DELWP will seek opportunities through existing reviews to strengthen compliance and enforcement frameworks, and provide information on the effectiveness of the existing framework to support any decision on a broader regulatory review. | <ul style="list-style-type: none"> • recommend the Act is amended to have DELWP officers able to be authorised officers. <ul style="list-style-type: none"> ○ leadership from DELWP ○ more enforcement hitting the ground in priority areas. ○ aerial imagery analyses. • DELWP should have authority to direct RA to follow up known instances of non-compliance or undertake enforcement where Councils do not have sufficient resources. |