SUBMISSION

Review of the native vegetation clearing regulations:
Consultation Paper

May 2016
Executive summary

VAFI appreciates the opportunity to contribute to the review of native vegetation clearing regulations. While VAFI supports the policy intention to increase cover of native vegetation, the regulations in their current form are not an appropriate control for commercial forestry activity. VAFI urges the Department of Environment Land Water and Planning (DELWP) to reframe the role of forestry in the landscape and give consideration to the multiple benefits that arise from sustainable silviculture.

Commercial forestry in Victoria is guided by the Code of Practice for Timber Production (Code of Practice), which contains a suite of mandatory actions that forest managers must undertake to conserve biodiversity values. Sustainable harvesting, replanting and management on private land can therefore maintain the biodiversity value of native habitat while also delivering other environmental benefits (e.g. predator management, fire reduction, carbon sequestration) and boosting the local economy.

However, the native vegetation clearing regulations, in their current form, are a disproportionate obstruction to commercial forestry on private land. Many owners of small land blocks, often containing previously harvested regrowth, are in a position where it financially unfeasible to obtain a permit to harvest timber sustainably. The Biodiversity Guidelines contain provisions for commercial forestry to achieve offset outcomes with same-site regeneration of native vegetation. However, in practice it is impossible to meet the conditions that would allow a permit to be granted using this approach.

The cost of obtaining biodiversity offsets is prohibitively high, well in excess of potential timber values. Landowners are therefore effectively prevented from realising the value of their resource, and subsequently will not invest active management of their land assets such as pest management and fire risk mitigation. The absence of management has the potential flow-on effect of contributing to overall decline in habitat condition on private land. Environmental benefits, delivered by the private sector to complement management on public land, are lost if forestry is not commercially viable.

The primary reason for this is that the risk assessment process in the Biodiversity Guidelines for “removal” of native vegetation does not distinguish between sustainable timber harvesting, where a site is maintained as forest, and clearing to convert land to other uses (e.g. agriculture, urban development). A more appropriate approach is to treat forestry as a distinct activity with lower impacts on biodiversity values than clearing and to define offset or regeneration requirements accordingly.

In the long-term, VAFI urges DELWP to consider a state-wide framework for assessment and approvals, for native harvesting, separate from the planning provisions, that is consistently implemented across all land tenures.
About VAFI

VAFI is the peak employer representative body for the Victorian forest and wood products industry. Our members include forest growers and managers, harvest and haul businesses, wood and paper processors, secondary processors and sellers, and associated businesses and organisations.

VAFI is committed to ensuring an economically, environmentally and socially sustainable future for Victoria’s forest and wood product industries. We support and encourage best practice in industry and forest management.

The Victorian forest and wood products industry is an important economic contributor and provides opportunities for productivity growth, a diverse regional population and maintaining a sustainable local industry.

The Victorian forest and wood products industry directly employs over 21,000 workers, most in regional Victoria, and provides an annual value of $6.1 billion in sales and service income to the local economy. VAFI encourages development of state-wide infrastructure that will lead to greater environmental, as well as social and economic benefits.

The overall vision for the forest and wood products industry in Australia is that of growth, stability and sustainability. The forest and wood products industry in Australia is a 21st century employer and wealth generator. It is a sunrise, not a sunset industry. What the industry needs from all levels of government – national, state and local - is clarity of their public policy positions and decisions that impact the future of the forest and wood products industry in this country.
Native vegetation clearing policy

The ultimate objective of the regulations is that there should be no net loss of native vegetation and Proposed Improvement 1 seeks to:

“Clarify that the primary focus of the regulations is to ensure avoidance of native vegetation removal where possible.”

VAFI supports the goal of achieving a long-term net gain in native vegetation. However, VAFI notes that the general principle of “avoidance” does not address historic and continuing overall decline in native vegetation condition and extent on private land.

This principle, as it is currently applied, encourages land owners to view existing vegetation as a liability rather than an asset. In 2007, an ABS survey of landholders with native vegetation on their land reported that 22% only retained vegetation because it was too expensive or difficult to clear and 28% said they would have cleared if there were no restrictions on doing so.\(^1\) While survey results are not available specifically for native forest in Victoria, this report suggests that a large proportion of native vegetation owners do not see any economic value in their vegetation.

This attitude creates a danger that vegetation will be degraded by inappropriate fire regimes, failure to control weeds and other outcomes that cannot be prevented by regulation. This view among landholders is likely to be exacerbated by the native vegetation clearing regulations acting to prevent active investment and management of large areas of private native forest for environmental and economic outcomes.

At present the regulations act as a block to private forest management and harvesting and are inconsistent with management of similar native forest habitats on public land. Engagement with VAFI members has provided a range of examples where small plots of land where thinning or harvesting native trees has been prevented by high risk assessments of biodiversity impacts leading to prohibitive costs in purchasing offsets (see Appendix 1 - Case Studies). This includes sites that have been previously thinned or harvested and regenerated.

Problems with the definition of “removal”

The primary driver for assessing forestry as high impact is the concept of “removal” as used in the regulations. Removal conflates sustainable timber harvesting – where harvested sites are actively managed to encourage re-growth – with permanent removal and conversion to new land uses, such as agriculture or property development.

Under the regulations, commercial forestry is recognised in the biodiversity guidelines\(^2\), however same-site regeneration conditions only apply under a general offset. In contrast, the

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2 Biodiversity Assessment Guidelines, Table 9
risk assessment pathway means that forestry will typically be assessed as medium or high risk due to the likely size of the area to be harvested (An area greater than 1 hectare will increase the likelihood that biodiversity offsets must be obtained under specific offset conditions). Specific offsets preclude same-site regeneration and landowners are obliged to purchase biodiversity offsets at a cost well in excess of the potential value of timber. However sustainable harvesting, compliant with the Code of Practice, would allow landholders to invest in the value of their resource while also delivering a range of environmental benefits.

Benefits of encouraging sustainable forestry

Commercial forestry in Victoria is undertaken in compliance with the Code of Practice, which contains a suite of mandatory actions to maintain environmental values in private forests as well as seeking to minimise impacts of cultural values and the visual landscape. Actions include:

- Managing harvested forest to perpetuate biodiversity values.
- Regenerating harvested areas using seed sources with provenance to the area.
- Maintaining species composition and representative gene pools.
- Monitoring and maintaining forest health (e.g. weed and pest control).
- Measures to protect all unharvested areas from the impacts of unplanned fires.
- Protecting waterways and riparian habitat using buffers and filter strips.
- Minimising water pollution.
- Maintaining the productive capacity of soils.

A robust forest and wood products industry would also contribute to climate policy targets. Recent research that accounted for these multiple emissions mitigation pathways, showed that in two native forest types in NSW, sustainably managed wood production forests can produce better carbon abatement outcomes than unharvested forests. Sustainably managed forests retain their carbon stocks over time, and the long-lived wood products derived from them retain carbon for even longer periods. These forests not only store carbon, they support the livelihoods of local communities.

VAFI recommends that DELWP clarify the distinction between native vegetation removal for land-use change and sustainable timber harvesting. Harvesting should be clearly defined as an activity with a lower impact on habitat condition and long-term biodiversity values and allocated to a lower-risk assessment pathway when determining offset requirements.

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Consistent cross-tenure regulation of forestry activity

Private forests currently represent a very small proportion of source for wood products in Victoria, largely due to the current regulations. The full extent of unavailable resource is poorly documented but private native forests represent approximately 13% of all native forest and, during the period 1997-2007, supplied an average of 10% of the total volume of sawlogs in Victoria. Private forests therefore have the potential to sustainably supply a proportion of demand for wood product if governed consistently across public and private land tenures.

The benefits of such a system in Victoria include:

- Consistent, cross-tenure management of harvested native forests.
- Consistent application of management rules across the state.
- Improved strategic management of biodiversity values at the state level.
- Allowing harvesting from private land would reduce resource pressure on public forests.
- Allowing private forests to be managed for timber would encourage investment in native forest management and plantation creation.

An example of a similar approach for forestry was outlined in the 2014 independent Review of Biodiversity Legislation in NSW. The review concluded that there should be a broader and deeper application of biodiversity offsets in NSW, but that forestry on private land represented a low risk activity. The report recommended that the NSW government should "review regulatory arrangements for timber harvesting on private land as part of a separate process that does not regulate the harvesting of native timber as a form of land use change".5

VAFI recommends that commercial forestry should be governed by a separate overarching regulatory system for private and public land under the Code of Practice. Oversight of this process should operate at the state-wide level.

Implementation and monitoring

Notwithstanding the fundamental problems with the definition of terms outlined in Proposal 1, VAFI supports the principles of guidance for improving consistency of decision making across Victoria (Proposed Improvements 2 and 3). VAFI also supports improved monitoring of offset outcomes with the proviso that reporting costs should not be passed on to landowners or managers (Proposed Improvement 4).

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Biodiversity information tools used in decision making and offset rules

Some VAFI members have reported that biodiversity offset decisions made in permit applications have been made using modelled information that does not reflect the species actually present on site (see Case Studies). VAFI therefore supports any actions that improve the accuracy of habitat information (Proposed Improvement 12) including appropriate on-ground confirmation of species presence.

VAFI also supports work to improve the understanding and accessibility of habitat data and methodologies (Proposed Improvement 13).

Offset delivery

In the event of the recommendations above being implemented, it is VAFI’s expectation that biodiversity offset requirements for commercial forestry will primarily be delivered by same-site regeneration.

In cases where specific offsets must be purchased, VAFI supports work that remove barriers to entering the offset market and reduce administrative burdens (Proposed Improvements 16 - 17). However, the cost of developing such systems should be met by the government and not passed on to landholders.

Any changes to revegetation standards (Proposed Improvement 19) should be compatible with the mandatory actions for regeneration in the Code of Practice.

Exemptions

Exemptions from the permit process are critical for plantation owners and managers. In particular the existing exemptions for the following activities are crucial:

- Fire protection works.
- Removing ingrowth within a plantation boundary (i.e. native weeds that have grown up with the plantation).
- Maintaining existing infrastructure (i.e. re-clearing roads, tracks, firebreaks and dam surrounds).
- Minimal vegetation removal for the construction of a new road and access from road reserves.
- Removing dead vegetation and regrowth less than 10 years old.
- Emergency work to address immediate safety hazards.
- Fence maintenance and renewal.

Any restriction of these current exemptions has the potential to impose a significant operational and administrative burden on the forest industry, through having to manage a large number of offset calculations and planning permit processes, but will provide little net gain in the protection of native vegetation.
When formalising exemption purposes and principles (Proposed Improvement 21) VAFI encourages DELWP to recognise and maintain provisions for land management activities. VAFI also recommends that input from the forest and wood products industry is actively sought if any changes to current land management exemptions are proposed.

In the event that plantation management exemptions are maintained, VAFI supports proposals to improve clarity, guidance and consistency in the exemption process (Proposed Improvements 22-24).
Appendix 1 - Case Studies

Feedback from VAFI members has provided a number of examples of small plots of land where thinning or harvesting native trees has been prevented by high risk assessments of biodiversity impacts leading to prohibitive costs in purchasing offsets.

Example 1.

A landowner wants to thin a stand of 1939 regrowth messmate for timber. However, the required biodiversity offset was set at an unfeasible level due to:
  - The modelled presences of plant species that are not found on the site, and
  - Thinning treated as clearing in the risk assessment.

The owner is uncertain about proceeding and may take the case to VCAT.

Example 2.

A landowner has an area of approximately 90 hectares with native trees, purchased with the intent to harvest timber over time. A permit was initially granted prior to the 2012 regulation review, but no timber was harvested at that time because of unfavourable market conditions. Under the revised vegetation clearing regulations, an extension to the permit was not granted. The owner estimates that the value of harvested wood is estimated to be in the order of $1 million over an extended period of sustainable harvesting and management.

However, the initial cost of consultancy services, and the expected cost of purchasing specific offsets, means that the landowner has not pursued obtaining a permit under the revised 2012 regulations.

Example 3

A property was purchased in 1999, primarily for the purpose of eucalypt plantation establishment on the available cleared land. The property also contained approximately 70 hectares of regrowth eucalypt, which was thinned in 2001 to allow the larger trees to grow and reach their mature size faster. Subsequent hazard reduction burning has also been conducted recently.

In 2015, an assessment of a proposed 20 hectares harvesting site that would return approximately $35,000 in sawlog and pulpwood, indicated 156 Specific Biodiversity Equivalence Units (SBEUs) would be required at an estimated offset cost of $130,000 per SBEU, totalling approximately $20 million.
Example 4

A landowner has approximately 130 hectares of mountain ash. Between 1973 and 1984, approximately 8 hectares was harvested each year with re-seeding and regeneration carried out in line with the Code of Practice. Following a 30 year regrowth period, the area is now ready to be harvested again, over a number of years, and has an estimated total value of $2 million.

However, despite the site's history of sustainable harvesting and documented evidence of replanting and regeneration, the impact of harvesting must be inappropriately assessed as clearing under the current Biodiversity Guidelines.

An application for a permit to harvest the trees was filed with the local authority in mid-2015 but not yet been reviewed. Without an appropriate permit, the landholder cannot harvest the timber or engage in any other land management (e.g. fire risk reduction) and the property has very little value on the open market.

Example 5

A company is proposing to harvest timber with a potential value of $30-40,000 in east Gippsland, where there is over 90% native vegetation cover. Under the current regulations, the company will have to spend $15,000 on initial consultancies, and a further $5-10,000 on assessing offsets before any biodiversity offset costs.