



## **Environment Victoria submission on Draft native vegetation clearance planning provisions and policy guidance**

Environment Victoria is the state's peak non-government, not-for-profit environment organisation. We have submitted on native vegetation regulations many times and welcome the opportunity to comment on the proposed changes to the planning provisions.

We are pleased to see a return to the basic three step process of 'avoid, minimise and offset' (although we would prefer to see it applied in all situations) and the recognition of the importance of endangered Ecological Vegetation Communities. We remain very concerned that the overall objective for native vegetation management is 'not net loss' rather than 'net gain', the very significant exemptions granted to government agencies clearing on Crown land and the approach to offsetting.

While we understand that wholesale change of the VPPS is unlikely at this late stage, we feel the following changes could easily be made.

### **Objectives**

Restate the objective of the regulations and policy so that the purpose of native vegetation management is 'to ensure the protection and stewardship of native vegetation in Victoria, including through consideration of the impacts on biodiversity, ecological processes and other values from removal, destruction or lopping of native vegetation.'

### **On-site assessments**

Extend the requirement for on-site assessment of native vegetation (habitat hectare assessment) to the Intermediate Assessment Pathway, as well as the Detailed Assessment Pathway. There are often uncertainties or errors in the information provided, and the presence of threatened species can easily be missed, so the decision-maker should have the power to require an on-site assessment in any circumstance if there is any doubt.

### **Apply avoidance principles in all cases**

Apply requirements to demonstrate avoidance and/or minimisation to all categories of application, including those in the Basic Assessment Pathway. As DELWP itself notes, more than 90% of clearing applications fall into this category of clearing (less than 0.5ha). Taken together, the cumulative impact of these small areas of clearing is likely to be very significant.

### **Crown land exemptions**

Most land clearing in Victoria currently occurs on Crown land and is conducted by the State Government and its agencies (for example on road reserves). The current regulations provide exemptions for clearing on Crown land, and these exemptions will continue under the proposed new regulations. The Assessment Guidelines intend to tighten up the conditions, such as by prescribing clearing under an exemption must be 'to the minimum extent necessary', but still allow the

exemptions to occur. Where agreements are entered into under the auspices of the Crown land exemption (e.g. with VicRoads), actions or conduct are not reviewable or enforceable in the same manner as if the clearing under a planning permit.

These exemptions for government agencies should stop, unless there is specific reason to exempt their conduct (e.g. emergency management). The current and proposed exemptions are entirely unsatisfactory, as they exclude government agencies from the accountability mechanisms (e.g. VCAT review) that apply to ordinary citizens and private landowners.

### **Offsets**

Offsets are fraught with difficulty and should be truly a last resort after genuine attempts to avoid and minimise loss of native vegetation. If offsetting must occur then the following minimum provisions should apply:

- the location of general offsets should be within in the same municipal district and preferably within the same locality, not with much wider catchment management authority administrative boundaries;
- the strategic biodiversity score (Victoria-wide value) of the offset should in no circumstances be discounted below the same score of the vegetation to be removed. This discount presently occurs – and is proposed to continue – for general offsets (20% discount) and in fragmented landscapes (a further 10%: *Assessment Guidelines*, p 23). These discounts undermine further the already problematic concept of ‘equivalence’ in the offsetting system and weaken the purported value of ‘strategic’ biodiversity scoring to protecting vegetation at wider (e.g. landscape) scale; and
- offsetting provisions for large trees will in effect contribute to the ongoing, incremental loss of large old trees in landscapes. Their irreplaceability is acknowledged (*Assessment Guidelines*, p 23) but not acted upon (see below)

### **The value of scattered trees**

There is better recognition of the value of scattered trees in the *Assessment Guidelines*, but giving them a ‘standard condition score of 0.20’ (out of 1.00) continues to under-value their importance in heavily cleared landscapes. The clearing of scattered trees, especially large remnant trees, can have significant landscape and cumulative impacts. Their condition should be individually assessed (whether healthy, hollow-bearing etc) and criteria recognising their disproportionate values in heavily cleared landscapes should be included in assessment processes. Given the effective irreplaceability of old trees, improved and accurate representation of their values is a minimal requirement for their conservation.

### **Unacceptable impacts**

Clearly articulate the principles underpinning those circumstances in which removing native vegetation will have unacceptable biodiversity impacts, or impacts on other values identified. This is analogous to identifying those circumstances constrained by the limits of offsetting, such as where native vegetation contains values that are irreplaceable or the proposal overall will substantially exacerbate the vulnerability of rare or threatened species.

### **The interaction of review of native vegetation clearing controls and reform of the Flora and Fauna Guarantee Act**

The review of the native vegetation clearing controls is occurring alongside the development of the Biodiversity Strategy and the review of the FFG ACT. It is vitally important that the three processes share objectives and work alongside each other to protect and enhance biodiversity on Victoria. The

VPPs have traditionally to do some of the heavy lifting because of weaknesses and deficiencies in the legal framework and the lack of an up to date, fit for purpose biodiversity strategy.

Review of the FFG Act provides an opportunity to revise biodiversity management in such a way that key features can effectively work together to strengthen both conservation (nature protection) and ecological restoration. Managing native vegetation in the context of land-use planning (as the planning system does) is one part of the puzzle. The FFG Act can provide other parts:

- effective threatened species conservation, aimed at arresting and turning around trajectories toward extinction;
- landscape-scale protection and restoration; and
- reformed governance and institutions.

There are currently elements of this biodiversity management framework in the native vegetation clearing regulations. For instance, through mapping tools and 'pathways' the native vegetation regulations seek to apply 'precaution' to management of threatened species and (to a degree) landscapes. But operating through the planning system, with its competing priorities, tends to compromise the nature protection and conservation task and will not be enough. An effective and reformed FFG Act is fundamental to arresting and reversing decline, and protecting and restoring our precious biodiversity.

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