

9 May 2016

Review of the native vegetation clearing regulations
Regulatory Strategy and Design
Department of Environment, Land, Water and Planning
PO Box 500
EAST MELBOURNE VIC 8002

To Whom It May Concern:

Re: Review of the native vegetation clearing regulations

The Property Council welcomes the review of the existing native vegetation clearing regulations.

We look forward to working with the Department of Environment, Land, Water and Planning (DELWP) to ensure that it assists in protecting and improving Victoria's biodiversity by implementing a simple process for all stakeholders.

At a high level, we believe the current system would benefit from:

- An elimination of the confusion in the regulations;
- Increased transparency and accountability; and
- Greater engagement with relevant authorities.

It is widely recognised that the retention of native vegetation in an urban environment does not provide the same biodiversity benefits as offsets in areas that are contiguous with other biodiversity assets.

This is because they have the ability to provide long term protection to specified species.

A blanket approach to retaining native vegetation within urban environments will reduce native vegetation removal, but it will not improve the biodiversity outcomes.

For this reason, we do not support the reintroduction of the tests to 'avoid and minimise' as we believe it is not best practice and does not produce optimal biodiversity outcomes.

Instead, we encourage Government to allow financial contributions for offsets which can be invested by the State into more holistic biodiversity reserves in line with an overarching strategy.

In response to Government's proposed changes, we provide the following comments and suggestions:

Improvement 5

The Property Council does not support the reduction of the low risk assessment threshold.

We believe that it will have unintended administrative and resourcing consequences on agencies who already struggle under the burden of the current legislative controls. The proposed change is also predicated on the assumption that all trees in the assessment are large and old, which we believe is conjecture.

The proposed improvement would thus have the opposite effect to what is intended; it will create more red tape, rather than establishing an administrative improvement.

Improvement 7

The Property Council does not support Improvement 7 which proposes the application of "avoid and minimise" statements to low risk pathways. As set out in our introductory comments, we believe that the mandatory retention of native vegetation in urban environments is counterproductive to achieving long term biodiversity outcomes.

We also consider the application of this assessment to low risk pathway applications to place additional administrative burdens on permit applicants and assessment authorities.

As it will not result in either biodiversity or administrative improvements, we encourage Government to abandon this proposal.

Improvement 8

The Property Council does not support Improvement 8.

We believe that the objectives would be better achieved by providing additional information regarding offset strategies/options to permit applicants.

Improvement 9

The Property Council does not support Improvement 9.

It is essential that the decision guidelines are related to a risk assessment as not all proposals are equal and that the impacts are variable.

If the Government chooses to pursue this improvement, we encourage them to focus on how the guidelines attend to the objective.

Improvement 10

While we support the notion of clearer guidance on the grounds for refusal, it cannot come at the cost of some forms of development being prohibited. We are concerned that while this improvement assists in precluding certain vegetation removals, in regions identified in strategic planning controls for some forms of development, it may be prohibited. If additional grounds are added, the role of strategic planning documentation must also be included as a consideration to ensure that a balanced decision can be made.

Improvement 11

If Councils consider certain areas of native vegetation worthy of additional protection, these can be acquired by implementing overlay controls on the land. The Property Council supports the current procedural controls that exist in order to implement an overlay. We encourage Government to maintain the status quo and

disregard the proposed changes to these controls. The alternative course of action will lead to greater misunderstanding of the controls and a consequential spike in arbitration activities. The Property Council would also support the inclusion of considerations relating to any revegetation or additional offset activities proposed which may result in a 'net increase' of vegetation.

Improvement 12 & 13

We encourage Government to use the data that is actually collected by appropriately skilled and experienced professionals to improve the mapping system the Government and Councils utilise to guide their assessments.

Survey and research work that is conducted on the land itself provides more accuracy than the modelled data, allowing for more precise offset provisions to be established. This is critical for areas that have until now relied on time stamped data derived from aerial surveys, rather than onsite assessments.

Improvement 20

The Property Council supports the creation of this framework, and encourages Government to:

- Include additional mechanisms to provide funding for the improvement of ecosystems on crown land; and
- Allow these additional funding mechanisms to be recognised on the credit register.

As submitted above, in most situations we believe that biodiversity will be best supported with offsets into designated offset areas.

However, the Property Council is mindful that offsets need not be solely provided by cash offset. Instead, Government should also consider the potential for proponents to elect to reduce required removal or obtain offset credits through more innovative solutions. These may include propagation and re-establishment of species such as the Spiny Rice Flower, which is being undertaken by a developer in Melbourne's northern suburbs. Such initiatives could result in substantial biodiversity gains and should be supported as an option.

Impacts on vegetation, even those which are minor in scale as detailed in the discussion paper, have a lasting effect on the State's ecological systems. It is for this reason that strategies should be developed which allow for reworking, and are capable of adapting in time to pre-emptively meet specific requirements/issues.

The Property Council encourages Government to create a responsive policy instrument that is capable of balancing competing and complimentary interests. This must include a framework that provides recognition for innovation and research.

A rigid framework will discourage any concepts or programs which seek to deviate from the accepted biodiversity strategies, and also restrain the pace of any research programs that seek to address Victoria's natural environment aspirations.

We trust that this short summary assists your current process and we look forward to your response. If you would like to discuss this submission further, please contact [REDACTED] Senior Policy Advisor, on [REDACTED] or [REDACTED]

Yours sincerely,

[REDACTED]
Jennifer Cunich
Victorian Executive Director
Property Council of Australia