

Outcomes report

Review of the native vegetation clearing regulations



November 2016

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Minister's foreword

Victoria's ecosystems provide critical habitat for our unique native plants and animals.

A healthy environment is fundamental to the wellbeing of all Victorians. It is also the foundation of many of the productive activities that underpin our economy. We need to ensure our economy can grow and prosper, while protecting and enhancing our natural environment for future generations.

The Victorian Government has committed to improving the care and protection of our environment through three interconnected initiatives:

- Development of an overarching biodiversity plan – *Protecting Victoria's Environment – Biodiversity 2036*.
- A review of the *Flora and Fauna Guarantee Act 1988*.
- A review of the native vegetation clearing regulations (the review).

This review of the native vegetation clearing regulations focuses on sensibly protecting sensitive vegetation. As part of the process the Department of Environment, Land, Water and Planning (DELWP) has engaged with the Victorian community to gather views and ideas that have helped to inform the proposed changes to the regulations.

DELWP also established an independently chaired Stakeholder Reference Group with representatives from industry, environment and local government to provide advice and input into the review. This group brought a diverse range of views and experiences to the review, providing invaluable perspectives that helped inform the outcomes.

I would like to express my thanks to the Stakeholder Reference Group representatives and Chair, for their involvement and contribution to this significant piece of work.

I would also like to thank the broader Victorian community, who have actively contributed to and provided feedback on the changes to the regulations during the recent consultation process. Together, we will ensure sensible protection of sensitive vegetation.

The regulations will provide for better consideration of important biodiversity elements in decision making. This includes key habitats for dispersed rare or threatened species, large trees, endangered Ecological Vegetation Classes, and sensitive wetlands and coastal areas.

Planning permit applicants will have the ability to provide more site-based information to supplement the mapped information.

The function of the regulatory system will also be improved, to provide greater transparency. This will include improved monitoring and reporting on the implementation of the regulations, and the formation of a native vegetation regulations advisory group to support DELWP in its development of a program of ongoing improvements.

We now welcome your feedback on the proposed changes to the regulations, which includes amendments to the Victoria Planning Provisions, and the new *Native vegetation clearing – assessment guidelines*.

The Hon Lily D'Ambrosio MP

Minister for Energy, Environment and Climate Change

1. Review outcomes

The Victorian Government has concluded its review of the native vegetation clearing regulations (the review).

Extensive consultation and stakeholder engagement informed the review throughout 2015 and 2016. Key consultation activities included:

- 19 community and local government workshops held across Victoria
- individual and group stakeholder meetings
- surveys of local government and ecological consultants
- analysis of submissions received in response to the *Review of the native vegetation clearing regulations - Consultation paper* (Consultation paper) released in March 2016.

This report outlines how the improvements will be implemented in the native vegetation clearing regulations and other supporting initiatives, to ensure the sensible protection of sensitive native vegetation.

The government will consider feedback on the proposed amendments to the Victoria Planning Provisions (VPP), including various clauses and the *Native vegetation clearing - assessment guidelines* (Assessment guidelines), which will be an incorporated document in all Victorian planning schemes.

The Department of Environment, Land, Water and Planning (DELWP) will continue stakeholder consultation as part of the implementation program for those improvements not dependent on changes to the VPP.

Section four outlines a number of improvements that deliver on the objective of the review to “sensibly protect sensitive vegetation”. They are grouped into the following three areas:

- provide better protection for sensitive native vegetation
- enhance the overall function of the regulations
- increase the transparency of the system.

Section 5 includes a full list and description of the improvements. These will be implemented by changes to the regulations, or delivered as part of an ongoing program.

Please see the following publications for more information on the native vegetation regulations and review:

- *Review of the native vegetation clearing regulations – summary of proposed amendments to the Victoria Planning Provisions*
- *Native vegetation clearing - assessment guidelines* (Assessment guidelines)
- *Review of the native vegetation clearing regulations – consultation, submissions and response.*



2. Next steps

Comments are being sought on the proposed amendments to the VPP listed below:

- Clause 12.01 *Biodiversity* (State Planning Policy Framework - SPPF)
- Clause 52.16 *Native Vegetation Precinct Plan* (Particular Provision)
- Clause 52.17 *Native Vegetation* (Particular Provision)
- Clause 66.02-2 *Use and Development Referrals – Native vegetation*
- *Native vegetation clearing – Assessment guidelines.*

If you would like to review and comment on the proposed changes go to the DELWP website at <http://www.engage.vic.gov.au>

Before introducing the amendments into the VPP, DELWP will provide training and information to support local governments, consultants and DELWP staff to implement the new regulations. DELWP will also undertake targeted consultation to support the delivery of the program of ongoing improvements detailed in section 5.

Figure 1 below outlines the review process to date and the next steps to be taken.

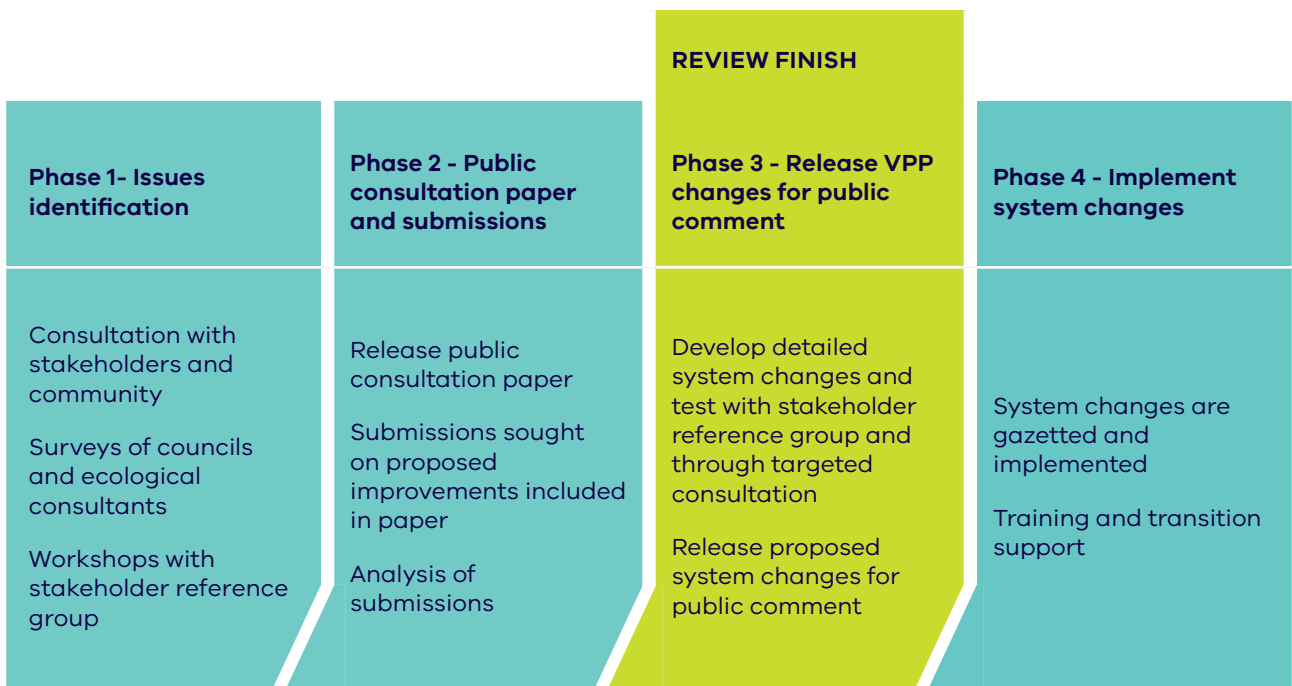


Figure 1. Review process to date and next steps

3. Background

3.1 Native vegetation clearing regulations

In May 2015, the Victorian Government announced a review of the native vegetation clearing regulations. The aim of the review was to examine the regulations to ensure that they sensibly protect sensitive native vegetation. The *terms of reference* (see Appendix 1 for the complete list) included the consideration of:

- decision making processes and tools
- accuracy of statewide mapping products and the use of site-based species information
- application of the avoid, minimise and offset hierarchy (referred to as the three step approach)
- functioning of the credit market (referred to as the offset market).

A stakeholder reference group (SRG) was established to support the review and played an important role in bringing together the views of a diverse range of stakeholders. The SRG provided a forum to share issues and consider and test ideas and proposals. A list of organisations represented on the SRG is provided in Appendix 2.

As part of the review, DELWP undertook an extensive consultation and engagement program seeking community and stakeholder views. The insights, feedback and experiences of stakeholders provided valuable information and helped to bring the key issues into focus. Consultation also highlighted the diversity of stakeholder views.

Over 600 people, across a broad range of stakeholder groups, participated in the first consultation phase of the review. In March 2016, the government released the Consultation paper, which set out 29 proposed improvements that responded to issues raised by the community through the initial consultation.

A total of 218 public submissions were received on the Consultation paper. These helped inform the proposed system changes that are now available for public comment. Further information on the consultation process and details of submissions can be found in *Review of the native vegetation clearing regulations – consultation and submissions summary*.

3.2 Biodiversity policy

The review of the native vegetation clearing regulations is part of a package of biodiversity policy reforms that the government is delivering. The two other reforms are *Protecting Victoria's Environment – Biodiversity 2036* and the review of the *Flora and Fauna Guarantee Act 1988*.

Protecting Victoria's Environment – Biodiversity 2036

Protecting Victoria's Environment – Biodiversity 2036 (the Biodiversity plan) describes a new vision, in which Victoria's biodiversity is healthy, valued and actively cared. It outlines that the objective for the regulation of native vegetation permitted clearing should lead to no net loss to biodiversity, through the application of the three step approach – avoid, minimise and offset.

It also outlines that through investment and voluntary programs separate from the regulations, the government remains committed to achieving an overall 'net gain'. This is expressed as an improvement in the overall extent and condition of native habitats across terrestrial and marine environments.

In achieving this, not all habitats or vegetation types will need to be improved or increased, but overall gains will need to outweigh losses. The most important places to achieve gains and to avoid losses are locations with higher relative contribution to biodiversity benefit.

Flora and Fauna Guarantee Act 1988

The review of the *Flora and Fauna Guarantee Act 1988* provides an opportunity to consider a number of matters that were raised by stakeholders during consultation that were outside of the scope of the review. These matters include providing:

- improved protection of habitat considered critically important for biodiversity
- maps of the most important locations for species that rely on habitats not covered by the regulations (such as caves) to facilitate their protection
- a more comprehensive compliance and enforcement legislative framework.

A discussion paper is being prepared and will be released for public comment.



4. Review Outcomes

4.1 Provide better protection for sensitive native vegetation

One of the aims of the review was to examine how protection of sensitive native vegetation could be improved. Throughout the consultation process stakeholders highlighted areas where they felt that better protection of biodiversity was needed. These views, combined with analysis of the system undertaken by DELWP, identified areas of the regulations that could be adjusted to deliver better biodiversity outcomes. In developing these system changes, consideration was given to how this could be achieved without increasing the overall regulatory costs.

The improvements identified within this section seek to use information that is already collected through the current application process including the habitat hectare assessment or in the maps and models provided by DELWP.

Better protection is provided through a number of key changes including:

- identification and consideration of sensitive native vegetation in the application and assessment process
- strategic approaches to planning and to compliance and enforcement
- improved decision making.

Identification and consideration of sensitive native vegetation

In order to provide better protection for sensitive native vegetation it is necessary to ensure that important biodiversity values are captured in the application so they can then be considered in the decision making process.

In determining which assessment pathway applies to an application, additional biodiversity information will be considered, including:

- large trees
- sensitive wetlands and coastal areas
- endangered Ecological Vegetation Classes (EVCs)
- more important areas of dispersed rare or threatened species habitats.

Once an application is made, this information will then be considered as part of the decision making process

for a permit. Including these values will ensure a more detailed assessment of impacts to biodiversity and also allows an applicant to focus efforts to minimise impacts in areas where the most important biodiversity values exist.

Through the consultation process, stakeholders raised the need for greater consideration of large trees in the regulations. Large trees are frequently the oldest component within an ecological system, are unique in the landscape and cannot be replaced in the short term. In addition to playing a role in determining the assessment pathway, they are included in the decision guidelines and as an additional offset attribute. The offset provided must include protection of at least one large tree for every large tree removed.

Strategic approaches

Planning

Under the regulations, clearing of native vegetation and the establishment of offset areas is generally considered on a permit by permit basis. Strategic planning processes can be more effective in protecting areas of high biodiversity value. DELWP will develop guidance to support councils to undertake strategic planning for biodiversity. This will describe how statewide biodiversity products can be used to achieve better protection of important biodiversity values.

Other strategic planning opportunities were identified during the review. These include:

- Implementing programs to identify and secure offsets in areas with limited supply, in partnership with Trust for Nature and other stakeholders.
- Working with the Victorian Farmers Federation on a demonstration project to undertake property vegetation planning and native vegetation precinct planning within agricultural landscapes. This could involve landholders working together to secure areas of native vegetation across a number of properties to compensate for clearing, enabling more efficient farming practices.

Compliance and Enforcement

Improving compliance with the regulations will help protect biodiversity. Preventing illegal clearing will see native vegetation removal assessed, opportunities to avoid and minimise its removal considered and an appropriate offset secured.

DELWP will develop a statewide risk-based compliance and enforcement strategy in collaboration with local government and the Municipal Association of Victoria. This will enable resources to be directed to address the issues that pose the greatest risk to biodiversity.

Preventing illegal clearing by promoting compliance is preferable to enforcement action, which can be costly and time consuming to undertake. The compliance and enforcement strategy will provide a co-regulatory framework to guide regulatory authorities in adopting the most appropriate approach. The co-regulatory approach is outlined further in section 4.3.

Decision making

Improvements in the decision making process include clarifying how the three step approach (avoid, minimise, offset) should be applied and consideration of the impact on large trees, endangered EVCs, important habitat for rare or threatened species, sensitive wetlands and coastal areas.

An avoid and minimisation statement will be included as a requirement for all applications (this is currently not required for low risk-based pathway). This is intended to be a short description of steps taken to avoid and minimise impacts. This will encourage applicants to consider alternative options for the proposed development or use, which may reduce the extent of native vegetation removal and reduce costs for applicants where less offsets are required. It will also introduce an opportunity for decision makers to work with applicants to achieve improved biodiversity outcomes.

Information on how to apply the three step approach is provided in the Assessment guidelines and the *Assessment handbook - native vegetation clearing* (the Assessment handbook) - see section 4.2 *Guidance materials* for further information. In the Basic Assessment Pathway, a simple statement that avoidance and minimisation of impacts to biodiversity values has not been undertaken is acceptable, as biodiversity values are low and impacts can be compensated by securing an appropriate offset.

Impacts on large trees, endangered EVCs, important habitat for rare or threatened species and sensitive wetlands and coastal areas are included in the decision guidelines. This will enable the responsible authority to consider impacts on these values as

part of the decision making process. The requirement for this information will not result in any additional costs for applicants, as it will be included in the updated mapping information provided by DELWP.

4.2 Enhance the overall function of regulations

Throughout the consultation process, many stakeholders and community members commented that the intent of the regulations could be made clearer and their operation more efficient to reduce confusion and increase their effectiveness. Improvements were designed to increase clarity while considering any additional costs or savings from the changes and the benefit to biodiversity. The function of the regulations will be enhanced through:

- revised assessment pathways
- improving information use
- updating the exemptions
- guidance materials.

Assessment pathways

The Consultation paper proposed changes to the assessment pathways including reducing clearing thresholds and the number of assessment pathways (from three to two). The proposal to change the number of pathways was in recognition that there is little to differentiate the current application requirements and decision guidelines for the moderate and high risk-based pathways.

In response to feedback about the potential for additional costs for applicants and the intent to ensure there is a risk-based approach, the three pathway approach will be retained (known as Basic, Intermediate and Detailed assessment pathways). Improved differentiation between pathways will lead to better consideration of biodiversity and improved decision making. The improvements to the *location map* ensure that the application requirements in the three assessment pathways are proportionate to the risk of impact to biodiversity from the removal of native vegetation.

The assessment pathway is determined from the amount of vegetation to be removed and the location of the vegetation. The clearing amount is set at a threshold of 0.5 hectares. More than 90% of

permit applications propose to remove less than this amount of native vegetation. The combined impact of reducing the clearing threshold and updating the *location map* means that there is a neutral impact on cost to applicants from these changes.

The application will include a brief offset statement for all pathways. This is currently not required for the low risk-based pathway, and an applicant may go through a lengthy planning permit process unaware of their offset obligations until after the permit is issued. The inclusion of the offset statement upfront will help proponents understand their offset obligations (and costs) early in the process. Applicants can then consider adjusting their proposal to reduce their clearing footprint and resultant offset obligations before lodging an application. The requirement for this information will not result in any additional costs for applicants as specialist input is not required.

Information use

The accuracy of the DELWP mapped and modelled information at site level was raised as a key concern during consultation. In response, improved modelling techniques have been applied to ensure that this information is more accurate. Improvements were also made to base data – more than 1 million new records were included in the Victorian Biodiversity Atlas – and all records were assessed to determine suitability for modelling.

In addition, site-based information outlining habitat characteristics will be able to be used to supplement species habitat importance maps, in certain circumstances. This approach is outlined in more detail in the Assessment guidelines. The use of site-based information will help to ensure that offsets are only required for species habitats that are impacted. This approach can also be applied at offset sites and may help address the shortage of some specific credits.

Scattered trees will be considered based on two sizes (large and small) to better reflect the value of the tree. In addition, when areas of scattered trees overlap, the combined canopy boundary will be used to determine extent of clearing and offset requirements (previously each individual scattered tree boundary was used). Removal of large trees is used to determine the assessment pathway and adds a requirement that the offset secured contains at least one large tree for each large tree removed. These improvements will reduce offset amounts for applicants in some cases and ensure that the offset better matches the biodiversity value of the native vegetation being cleared.

Exemptions

Consultation highlighted that changes to the exemptions were required to make them easier to understand and to improve how they operate. The main changes include edits to existing exemptions so that their intent is clear. A new exemption for Conservation work is proposed, provided the works are in accordance with an approved conservation management plan and demonstrate no net loss to biodiversity.

Guidance will be developed once the exemptions are finalised to provide more detail and explanation on how the exemptions are intended to apply. The guidance will also include the purposes and principles of the exemptions. The development of exemption guidance will be undertaken in conjunction with local government and relevant stakeholders.

Guidance materials

One way to improve the implementation of the regulations is to ensure that all relevant parties understand how they operate and what is required to either complete or assess an application. DELWP will prepare appropriate guidance for permit applicants and assessors including:

- *Assessment handbook - native vegetation clearing* for responsible and referral authorities to guide assessment and decision making
- applicants guidance for compiling a permit application
- industry specific Property Vegetation Plans
- guidance to support strategic planning for native vegetation protection and management
- guidance for exemptions including the purposes and principles of the exemptions how the exemptions are intended to apply.



4.3 Increase transparency of the system

A common theme from consultation with stakeholders and the community was that more needs to be done to increase the transparency of the system. This includes a need to improve the understanding of the regulations, ensuring that the objective of the regulations is being met and identifying ongoing improvements. Key actions to improve transparency include:

- establishing a native vegetation regulations advisory group (advisory group)
- making more information available about the operation of the regulations
- adopting a co-regulatory approach to the implementation of the regulations.

Native vegetation regulations advisory group

A key initiative to support the ongoing engagement and functioning of the regulations is to establish an advisory group. The advisory group will include a range of stakeholders that represent groups with an interest or involvement in the regulations. Their role will include providing feedback and advice on:

- the functioning of the regulations and opportunities for improvement
- the implementation of the improvements outlined within this report
- approaches or opportunities for ongoing engagement to increase the understanding of the regulations.

The advisory group would follow a similar model to the SRG to connect DELWP and stakeholders. This will enable feedback on what is working well and identify areas that may be improved with adjustments or ongoing improvements. Periodic reviews will be undertaken of the function, need for and membership of the advisory group.

Information availability

Collecting reliable information is important to assess whether the objective of the regulations to achieve no net loss to biodiversity is being met. There are a number of areas where more information could be

collected, including the amount of native vegetation permitted to be cleared, cleared under exemption or illegally cleared. In addition, collecting information on offsetting, including the area and management of offset sites, could help determine the extent to which the objectives of the regulations are being met.

It is also recognised that gathering and reporting data should be achieved in a way that matches the need and is not onerous to organisations or individuals. There is a range of information that currently exists that could be collated, or where other cost effective approaches could be used to provide more qualitative rather than quantitative data.

The surveys of local government and ecological consultants used to support the development of the Consultation paper is an example of this more qualitative approach. DELWP will develop a process for monitoring and reporting in consultation with relevant stakeholders that, in the first instance, targets data collection with readily available information and uses existing reporting frameworks.

Co-regulation

There is a wide range of organisations that have a role to play in the regulation of native vegetation at a federal, state and local government level. This role can include responsibilities for assessment and approval of clearing, through to ensuring compliance with the regulations or other planning instruments or legislation. The adoption of a co-regulatory approach will see those agencies with regulatory responsibilities, such as local government and DELWP, establishing more formal or organised arrangements to work together. This could include arrangements to identify and implement cost effective ways to encourage compliance with the regulations.

The adoption of a co-regulatory approach can help the sharing of information between agencies, and the adoption of consistent approaches to improving compliance with the regulations. This will support a more transparent, consistent experience and outcomes for people who interact with these regulations. It will also enable approaches to be identified that focus on compliance rather than enforcement, which can be costly and time consuming and, as clearing has already occurred, result in poorer outcomes for the environment.

5. Improvements and implementation approach

The review outcomes will be delivered through the system changes and an ongoing program of actions (ongoing improvements) that are independent of the VPP e.g. development of a compliance and enforcement strategy. The implementation program for ongoing improvements will be guided by the advisory group and by targeted stakeholder consultation, and prepared prior to gazettal of the VPP changes.

Before the introduction of the updated VPP, DELWP will lead a program for local government, consultants and DELWP staff to inform them of changes and how the preparation and process of assessment of applications should occur. In addition, DELWP will also provide information to help people understand

the updated regulations and prepare an application to remove native vegetation.

5.1 VPP amendments

The *Review of the native vegetation clearing regulations – summary of proposed amendments to the Victoria Planning Provisions* report includes the draft clauses, describes the key changes to the system, and outlines the consequence of key changes.

The proposed improvements that will be partially or wholly addressed by the VPP amendment are briefly described in Table 1.

Table 1: Improvements addressed by changes to the VPP

Native vegetation clearing policy	Implementation
<p>Proposed improvement 1:</p> <p>Clarify that the primary focus of the regulations is to ensure avoidance of native vegetation removal where possible.</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>
<p>Proposed improvement 2:</p> <p>Consolidate comprehensive policy guidance for native vegetation removal.</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>



Permit and decision making	Implementation
<p>Proposed improvement 5:</p> <p>Reduce the low risk-based pathway threshold.</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>
<p>Proposed improvement 6:</p> <p>Replace the <i>Native vegetation location risk map</i> with an updated map of highly localised habitats.</p>	<p>Implemented by replacing the <i>location risk map</i> with a <i>location map</i> 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>
<p>Proposed improvement 7:</p> <p>Require an avoid and minimisation statement for all applications and consider this in decision making.</p>	<p>Implemented by amending the application requirements in Clauses 52.16 and 52.17 to require an avoid and minimisation statement.</p> <p>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.</p> <p>More information on how to prepare this statement will be included in guidance material for applicants.</p>
<p>Proposed improvement 8:</p> <p>Require an offset strategy for all applications and consider this in decision making.</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.</p> <p>More information on how to prepare this statement will be included in guidance material for applicants.</p>
<p>Proposed improvement 9:</p> <p>Change to two pathways – a “lower assessment pathway” and a “higher assessment pathway”.</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 Assessment guidelines.</p>
<p>Proposed improvement 10:</p> <p>Provide clearer guidance on when to refuse an application to remove native vegetation.</p>	<p>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.</p> <p>Further information will be provided in the Assessment handbook for responsible and referral authorities.</p>
<p>Proposed improvement 11:</p> <p>Include a decision guideline that allows councils to consider locally important biodiversity when assessing applications.</p>	<p>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.</p> <p>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.</p>



Biodiversity information tools used in decision making and offset rules	Implementation
<p>Proposed improvement 12:</p> <p>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.</p>	<p>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.</p> <p>Detail of how and when this can be done and the approval process will be included in the Assessment handbook and guidance for applicants.</p>
<p>Proposed improvement 14:</p> <p>Place greater emphasis on key areas of habitat for dispersed species in decision making and offset requirements.</p>	<p>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.</p>
<p>Proposed improvement 15:</p> <p>Differentiate between the biodiversity value of scattered trees for use in decision making and offset requirement determination.</p>	<p>Implemented in Clauses 52.16 and 52.17 and Assessment guidelines. 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>
Exemptions	Implementation
<p>Proposed improvement 22:</p> <p>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>

5.2 Ongoing improvements

A number of the improvements are independent of the changes to the VPP and delivery will be outlined through an implementation program. The implementation program for ongoing improvements will be guided by the advisory group and targeted stakeholder consultation, and prepared before gazettal of the VPP changes. These ongoing improvements are briefly described in Table 2. The implementation program will consider which improvements are a priority and any additional consultation that may be required to support their delivery.

Table 2: Ongoing improvements

Native vegetation clearing policy	Implementation approach
<p>Proposed improvement 2:</p> <p>Consolidate comprehensive policy guidance for native vegetation removal.</p>	<p>Implement by updating the Assessment handbook and guidance for applicants to support the implementation of the updated regulations. These documents will provide information to help applicants complete an application to remove native vegetation, and help councils and DELWP staff assess permits to remove native vegetation submitted under Clauses 52.16 and 52.17.</p> <p>Additional guidance to be developed is described in improvements 3 and 26.</p>
<p>Proposed improvement 3:</p> <p>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>
<p>Proposed improvement 4:</p> <p>Improve monitoring to determine if the regulations are achieving their objective and make this information publicly available.</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.
<p>Proposed improvement 10:</p> <p>Provide clearer guidance on when to refuse an application to remove native vegetation.</p>	<p>Implement by including details in the Assessment handbook on how to assess an application, including making decisions about impacts on biodiversity. The Assessment handbook will be available before gazettal and implementation of the changes to the VPP.</p>
<p>Proposed improvement 13:</p> <p>Increase the information available about the maps used in the regulations and improve their accessibility.</p>	<p>Implement by publishing <i>Native vegetation clearing - biodiversity information products</i> 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.</p>

Offset delivery	Implementation approach
<p>Proposed improvement 16:</p> <p>Increase the use and functionality of the Credit Register.</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.
<p>Proposed improvement 17:</p> <p>Support the development of the market for low availability offsets.</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 with low availability.</p> <p>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>
<p>Proposed improvement 18:</p> <p>Require that all third party offsets are registered on the Credit Register and meet its standards, including standards for securing the offset.</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>
<p>Proposed improvement 19:</p> <p>Redesign the revegetation standards to ensure desirable revegetation can occur.</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.
<p>Proposed improvement 20:</p> <p>Create a framework for offsetting on Crown land.</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>

Exemptions	Implementation approach
<p>Proposed improvement 21: Formalise a set of exemption purposes and principles.</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 statewide 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>
<p>Proposed improvement 23: Provide guidance on the intent and application of exemptions.</p>	<p>Implement by preparing guidance on exemptions that describes the intent of the exemptions and how they should be applied.</p>
<p>Proposed improvement 24: Adopt a consistent approach to agreements referenced in the exemptions.</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.



Compliance and enforcement	Implementation approach
<p>Proposed improvement 25: Develop a compliance and enforcement strategy.</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 regulator so that a focus is maintained on key compliance and enforcement risks.</p>
<p>Proposed improvement 26: Provide guidance and support materials for compliance and enforcement activities.</p>	<p>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.</p>
<p>Proposed improvement 27: Improve information gathering for compliance and enforcement.</p>	<p>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).</p>
<p>Proposed improvement 28: Promote co-regulatory support.</p>	<p>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.</p>
<p>Proposed improvement 29: Review the overarching compliance and enforcement framework.</p>	<p>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.</p>

Appendices

Appendix 1. Review of the native vegetation clearing regulations – Terms of reference

Background

The Victorian Government has committed to review the native vegetation permitted clearing regulations. The regulations are designed to achieve a no net loss in the contribution native vegetation makes to Victoria's biodiversity.

Matters for the review

Consistent with *Our Environment, Our Future*, the objective of the review will be to test the extent to which the regulations sensibly protect sensitive vegetation. The review will benchmark the regulations against the Victorian Competition and Efficiency Commission's (VCEC) best practice regulatory principles.

More specifically the review will examine matters raised by stakeholders, including:

- The decision making processes and the availability and appropriate use of decision making tools.
- The accuracy of statewide mapping products and the use of site based species information for consideration in the permit application.
- The application of the avoid, minimise and offset hierarchy.
- How the regulations measure and manage cumulative loss.
- The functioning and liquidity of the credit market arrangements.
- The appropriateness of costs faced by different groups of proponents.
- The range of objectives for regulating the removal of native vegetation.
- The relationship between the "no net loss" objective of the regulations and the state-wide native vegetation management objective to achieve "net gain".
- The clarity and operability of the native vegetation exemptions.
- Whether current compliance activities provide sufficient deterrence to illegal clearing.
- The appropriateness of current offset rules to provide adequate compensation for the environment.
- The process of ongoing system improvement and stewardship.

Appendix 2. Stakeholder reference group

Organisation

- Chair – Joanne Duncan
- Victorian National Parks Association
- Urban Development Institute of Australia
- Minerals Council of Australia (Victorian Division)
- Trust for Nature
- Environmental Farmers Network
- Victorian Farmers Federation
- Environmental Justice Australia
- Municipal Association of Victoria
- City of Greater Bendigo
- Hume City Council.

