

HAMILTON FIELD NATURALISTS CLUB



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To:
Land, Fire and Environment
Department of Environment, Land, Water and Planning
Level 2, 8 Nicholson St, East Melbourne Vic 3002

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Review of the native vegetation clearing regulations consultation paper 2016

The HFNC has the following comments to make regarding the proposed improvement to the policy.

1. **Native vegetation clearing policy.** The proposed improvements are broadly supported. One difficulty is that clearing without a permit is proceeding by farmers and by resident on rural block adjoining towns, yet Councils do not appear to be active in controlling that. One case on the edge of Hamilton, associated with removal of several large Swamp Gums (*E. ovata*), was brought to the attention of the Council but no penalty was imposed on the landholder. We consider that the Councils should be obliged to provide information on all infringements to DELWP. Unless action is taken, and publicity given, the problem will persist.
2. **Permit process and decision making.** The proposed improvements are supported in part, particularly allowing for impacts on:
 - o 'local biodiversity' (scattered trees, such as old River Red Gums, Yellow Gum, Grey Gum, Drooping Sheoak, Silver Banksia, Buloke)
 - o flora that is locally limited although it may not be statewide

The suggestion to reduce the threshold from 1 ha (15 trees) when determining the 'risk-based pathway' raises serious questions. That provision allowed the indiscriminate clearing of the major part of the 'lost' native vegetation in the State but we strongly disagree with the suggested new target of 0.5 ha (7 trees). That will still allow the destruction of 7 very large, old trees 'as of right'. No distinction is made between very small and very large trees, such as mature River Red Gums. The old 'framework' was much better in that regard. ALL trees planned to be removed should be subject to an offset. That provides a clear, unambiguous message. Nothing else will reduce the rate of clearance of trees.

- 3 **Biodiversity information tools for decision-making & offset rules.** The proposals are broadly supported.

The large-scale maps are almost useless, giving an appearance of authority. Difficulties lie within the quality of the maps that DELWP relies upon. The data in Victorian Biodiversity Atlas for private land is utterly inadequate (and mostly non-existent) and generally inadequate for public lands. The system of entering data is clumsy and difficult, so no-one (including government staff) wants to spend time on it. That source is regarded as the repository of all truth and data that is held elsewhere (e.g. Atlas of Living Australia or Field Naturalist Club records) for a particular block is regarded as irrelevant, even if it is the only data! The failure to accept data from those who make an assessment is equally scandalous.

Failure to rectify the problems with the VBA and the entry of data will remain a major cause of increased clearance of native vegetation. More staff must be provided to bring the VBA up to date.

Since there is very little data on flora and fauna on private land, where most of this policy is directed, it is virtually impossible to predict from the map what the composition and quality of flora might be on any particular remnant that someone wants to clear. There is no substitute for a site assessment – and data from that field assessment should be accepted (currently it is not).

- 4 **Offset Delivery.** The proposed improvements are broadly supported. Improved monitoring of offset arrangements is vital – and there is no point in having regulations if they are not enforced. The offsets need to be arranged and in process **BEFORE** any clearing is permitted. The adequacy of offsets that are arranged remains questionable. For example, we would regard as ridiculous a policy requiring only 10 trees to be planted to compensate for a 400-year-old River Red

Gum. Apart from the environmental inadequacy, that gives little financial encouragement for the person who wants to clear the old tree to find a different solution. An appropriate 'offset' might be 1000 trees for every old River Red Gum removed (i.e. a cost to the developer of about \$1500).

In some regards, the pre-2013 system of off-setting was superior; 'like for like' allowed for different sizes (ages) of trees /shrubs to be taken into account. That is not the case in the present system.

The paper does not clearly state that any offset arranged for a pristine native bush or grassland area can never adequately replace the original. One might create another habitat but it can never replicate the entire original system, especially when the offset could be on a totally different landscape and rainfall regime. That is the great weakness of the process and, of course, the reason why clearing is to be avoided wherever possible.

5 Exemptions. The proposed improvements are partly supported; problems remain.

Destruction of roadside vegetation is an on-going problem. Where spraying or cultivation of the reserve occurs on pristine grasslands (as it has near Willaura, Chatsworth, Hamilton and Linlithgow) it is effectively destroying the last good native swards in Victoria. The action is often associated with supposed fire protection works by landholders, where the 3 m limit for firebreaks is routinely ignored, in some cases the entire width of 20-30 m being damaged. One problem with the restriction is that the 3 m width is not specified to be taken from the line of the fence. Consequently, in succeeding years the break can be shifted all around the reserve, damaging much of it.

The exemptions appear to condone the clearing of trees up to 4 m into the reserve – that width should be restricted to a max. of 1 m, sufficient to install a new fence. The regulations also do not make it clear whether permission must be sought for operations by a landholder or contractor to disturb or remove vegetation on road and rail reserves. A recent action on a rail reserve near the Wannon saw trees removed from the private land and reserve and all of the debris pushed onto the rail reserve, with much disturbance to native ground flora. No permission was sought – and no action was taken by DELWP. Clearly, the contractor learned that anything goes! If he (as well as the owner) was also liable to a fine then perhaps there would be much less illegal activity in future.

No exemptions to clear vegetation older than 10 years should be allowed – for landholders, developers, Councils, CFA or any other body – all applications should be subject to offsets.

6. Compliance and enforcement. We regard this as the weakest link in the system.

The major issue is that Shires will not prosecute farmers and developers in their jurisdiction. They do not want to have the burden of enforcement and prosecution. In many cases they have no expertise. They prefer to turn a blind eye. Why would they want to assume responsibilities for what they would probably regard as a State responsibility?

The State Government does not make any real effort to enforce the regulations either. The result in the community is either indifference to, or contempt for, the regulations. The result of inaction is that no-one in the general community takes the matter seriously.

Why there is no DELWP Native Vegetation Officer in major regional areas (e.g. for western Victoria: Ballarat, Colac, Hamilton, Portland, Horsham, Ararat, Mildura) who has responsibility for much of the process, including monitoring and compliance?

The Councils, CMA and CFA in SW Victoria have, in recent years, made efforts to acquaint landholders with the regulations around native vegetation clearance and the reasons for the regulations. That has been a positive move but the lack of enforcement of the regulation by Councils and DELWP has sent a contrary message – that no-one will hassle you if you ignore the regulations.

Councils and DELWP have failed to take action where it was required to address native vegetation infringements and a consequence is a loss of credibility in the community. Along with improved education, publicity around fines imposed for native vegetation clearance offences would influence attitudes and behaviour.