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VNPA Submission to the State Government's consultation paper:

Review of Victoria's native vegetation permitted clearing regulations

October 2012

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About this submission
The submission has been produced by VNPA staff and volunteers. It has built on inputs from a joint statement by 36 community conservation and environment groups released in April 2012 and a workshop of 63 native vegetation specialists from local government, government agencies, and ecological consultants, organised by the VNPA and Environment Defenders Office held on 20 September 2012.

1. Summary and Recommendations

1.1 Overview

Victoria, the most cleared state in Australia, has a large number of rare and threatened native species and habitat types. Native vegetation not only provides habitat for our wonderful native plants and animals, but also helps control erosion, and salinity, and keeps our air and water clean, as well as being an essential part of the look and feel of our countryside, so important to both locals and visitors.

These services are worth millions of dollars to the community annually, but have not been assessed in the context of costs vs benefits. The review has only really looked at Victoria's native vegetation clearing regulations in terms of costs to business and the economy, not the costs to the environment.

Property developers and farmers have long complained that native vegetation clearing is over-regulated and costly, without providing substantive evidence, so after 12 months of speculation and rumour the Baillieu Government has finally released a consultation paper on this complex topic.

Environment Minister Ryan Smith says the review aims to reduce red tape, improve government transparency and give increased certainty to landholders. But on closer examination it appears the review is premised less on native vegetation as an integral part of an ecological system, and far more on native vegetation as a commodity and a barrier to development.

It is troubling that regulations are swinging away from policies for avoiding clearing towards policies for allowing clearing, and offsetting. ['Offsetting' requires anyone clearing native vegetation to 'make up' for the environmental damage caused by clearing with money, securing an equivalent site for conservation, or (in some instances) undertaking restoration or management works].

It is equally worrying to see that the policy is geared towards a 'hands-off' approach to environmental governance; put bluntly, it appears that the policy is designed for a diminished public service and cost savings for business. While there is plenty of 'streamlining', there is no evidence to support the government's assertion that the proposed changes will mean '…stronger environmental outcomes'.

Overall, the changes proposed will be a significant watering down of regulations aimed at the protection of native vegetation.

The consultation paper, is high level and lacks detail on many of the key issues. It flags four priority reforms and five supporting reforms; there are some significant gaps and it also fails to consider some of the substantive reforms recommended by previous reviews, such as the establishment of an independent native vegetation regulator.

Currently, permits are issued for clearing about 1200 -2000 ha of native vegetation per year across Victoria. There are probably larger amounts of illegal clearing, which are not effectively monitored. Under the current system, clearing applications are mostly already approved and landholders are required to pay to provide equivalent vegetation offsets somewhere else in the state as a form of habitat compensation.

The key goal of the current system is 'net gain' in the extent and quality of native vegetation; this is proposed to be formally changed, for vegetation on private land to 'no net loss'. The current system also promotes a three-step approach - avoid, minimise and offset as a last resort. The new system focuses largely on offsets for the bulk of applications to remove native vegetation.

The total costs of this system are estimated as $41 million per year, 60% of which is the substantive costs of providing offsets, which are not proposed to be reduced. Administrative costs are around $10 million and there is some $5 million in apparent delay costs.

In the current round of consultations there is no detail on whether the government proposes to change costs associated with offsets. Much of the focus of the new regulations is on administrative savings e.g $10 million per year.

Such administrative savings will be made by removing the need for on-site of assessment of smaller areas of apparently low-value native vegetation and replacing this with across-the-counter permits for any patches of vegetation between 1 and 2.5 ha (up to six times larger an area than currently required). This will reduce the need for on-site assessment (usually done by consultants) for 80-90% of applications. On-site assessments for clearing for larger areas or rarer vegetation types will continue, but most small applications will not require assessment, instead an off-set fee will be charged, with an over the counter permit.

While the government proposes to use state-of-the-art computer models to help inform the decisions on which areas will be assessed and or cleared, these are not fit for use at a fine (property-level) scale.

Even small sites of native vegetation can have special plants or animals and can be home to threatened species or a magical old tree. How will anyone know that these are present if nobody is required to inspect the site before an application to clear it is approved?

Background documents for the review show that the current cost to the Victoria community of the administration of native vegetation permits system is miniscule - around $3.7 million per annum state-wide, or, if averaged across the population, around 66 cents per person per year (around 1 cent per week per Victorian resident).

Under the new plans, this will reduce total costs for business and landholders by between $2.2 and $3.6 million per annum, total administration costs per annum reducing from $3.7 million to under $1 million ($812,678). This is a small cost saving in state-wide dollar terms and is not really worth the increased risk of allowing increased and easier clearing of native vegetation, which has so many benefits and provides many services to the community such as clean water, air, protection against erosion as well as habitat for native plants and animals (though these are largely ignored by the government 'bean counters').

Overall the proposed new regulations are a watering-down of the existing regulations, and will make land clearing easier. The State Government is largely walking away from being an active regulator to acting as a tax collector. The 'fee-for-clearing' approach is a significant departure from the existing three-step approach of avoiding, minimising and (where necessary) offsetting clearing, and is a serious backward step for the environment.

Detailed issues, responses and reccomendations on the proposed strategic directions are summarised below and detailed discussion on each of these points is provided in the body of the submission and supporting information is provided in the Appendices.

2.0 Context & Gaps

We understand that this consultation paper was intended to be 'high level' and ideas-based, but there is a lack of detail within the paper in a number of key areas that prevents informed comment. Further consultation on key issues is required before substantive changes are made.

There are many important areas that are not addressed by the consultation paper or, seemingly, by this review process at all. These include:

- The biodiversity policy context for this review
- Current status of native vegetation in Victoria
- Review of the system to date (permitted and non-permitted)
- Due consideration of the other values of native vegetation

- A whole-of-government approach.
- Need for a single Native Vegetation Regulator

Key reccomendations:

- ***This policy has not duly considered all aspects of native vegetation regulation, nor has it explored examples of international and national best practice. It has actually narrowed its focus from the previous/existing policy and furthermore is lacking a policy context.***
- ***The policy should be independently reviewed by an expert or suitable body to assess its merits on ecological grounds.***
- ***Adequate information on the current status on native vegetation in the State should be the starting point for this review. This should be upfront and explicitly stated. .***
- ***Data on the amount of loss of vegetation through non-permitted means is integral for undertaking a review of this kind (even if it is approximate). If this information has already been collected, it should be reported to help others to provide informed comment.***
- ***Native vegetation is very much valued by the community and provides very good value when it is retained.***
- ***New data to approximate the value of native vegetation for <u>all</u> the values it provides should have been made to inform this review.***
- ***A consistent whole-of-government approach to native vegetation regulation is required. Without this, the system lacks integrity and fairness and poor outcomes result.***
- ***The review has ignored key recommendations from the earlier review by the VCEC to establish a single native vegetation regulator.***

3.0 VNPA Response to priority reforms

Priority Reform 1 - Clarify and amend the objective for permitted clearing

There are four key issues:

- ‘Net gain’ should be the single objective
- Public understanding of biodiversity
- Measuring ‘contribution’ to biodiversity
- Role of vegetation in land health and ecosystem services

VNPA recommendations:

- ***The new objective of ‘no net loss’ is not supported and the existing state-wide objective of ‘net gain’ should be retained in the permitted clearing regulations.***
- ***We believe that the proposed change will add further to confusion among landholders. We recommend that the clearing regulations retain language that is clearly understood and reflects the methodology applied in the policy.***

- ***The proposed new policy fails to explain how the new methodology will measure native vegetation's 'contribution to biodiversity' seeming to rely instead on native vegetation extent, quality and value for threatened species as surrogates.***
- ***Native vegetation's role and value for land protection and ecosystem function should not be de-coupled but rather better integrated using on-line tools to deal with issues such as erosion, land slip etc.***

Priority Reform 2 - Improve how the biodiversity value of native vegetation is defined and measured

VNPA response.

Improving the data available to inform any decisions about native vegetation management is important. However, we see a number of issues:

- Replacing on-site assessment with NaturePrint for 'low impact' sites
- Determining conservation significance– don't throw the baby out with the bathwater
- Continuous data collection and research is needed
- Improvements to the Habitat Hectare methodology and determining conservation significance

Summary of VNPA reccomendations:

- ***We support an improved method of determining natural values in the landscape and in particular support research and data collection that will help to update and improve these methods.***
- ***We do not believe that Nature Print is currently suitable for use at the property scale and should only be used in conjunction with existing assessment criteria and site-based assessments.***
- ***On-site assessment should not be abandoned altogether for 'low-impact' sites. There is merit in perhaps a streamlined rapid assessment approach, using either a shortened habitat hectare methodology or similar.***
- ***There needs to be on-going significant investment in ecological monitoring and data collection to inform future models.***

– ***In relation to updates for the habitat hectare methodology (including conservation significance) we recommend the following:***

  - ***The habitat score values for all bioregional conservation statuses in Appendix 3 Table 5 should be reviewed to ensure that High or Medium is not the minimum conservation significance possible for any BCS category***
  - ***This review should provide the opportunity to include alternative methods (other than the current version of the Habitat Hectare method) for treeless vegetation (Alpine areas, grasslands, wetlands, Scrubs, etc.)***
  - ***The revision should recognise and define very large old trees.***

- ***A separate conservation significance table (derived from Appendix 3, Table 5) should be developed for old trees, rather than using the existing one and assuming a habitat score of zero. This table may give a different conservation significance***
- ***The habitat value of particularly very large old trees should be recognised, regardless of the BCS.***
- ***The basis of determining a "relatively dense stand of scattered trees" should be revised to be based on the area of the stand, not the specification of the property allotments.***
- ***The framework does not specify offsets for small trees, and this should be addressed.***

Priority Reform 3 - Improve decision making

VNPA Response

We see a number of key issues in response to this priority reform:

- Administrative costs of Native Vegetation Permits – is it really worth it?
- It is reckless not to address the issues associated with 'low impact' clearing.
- Upfront requirement to avoid and minimise is useful and effective.
- Transparency and accountability are paramount

VNPA reccomendations:

- ***The three-step approach should be retained as an 'up front' requirement, where the emphasis on avoid and minimise should be clearly stated for all permit applications.***
- ***Moving the regulatory focus to higher impact applications only is negligent. Allowing 'the majority' of permit applications to move straight to offsetting the impact of their clearing with no on-site assessment is also negligent.***
- ***Native vegetation is a state-wide asset and the government has a responsibility to manage it effectively.*** \
- ***Decisions made using the risk-based approach require a transparent, easily understood process to ensure accountability. An independent native vegetation regulator would assist in assuring both applicants and the public that the process was credible.***

Priority Reform 4 - Ensure offsets provide appropriate compensation for the environment

VNPA Response

The proposed new system opens up the way to clear sites more readily, and as such, offsetting moves from being the last resort to an easier way of accommodating clearing. We see the following key points as being important in response:

- Current methods of applying Gain short changes the environment
- We need gains on the ground, not just on paper

VNPA reccomendations:

- ***Native vegetation retention is the most efficient and effective way to ensure habitat for threatened plants and animals***
- ***Offsets should remain as the last resort, not be the focus of policy that should be protecting native vegetation.***
- ***A system that is reliant on offsets and the offset market for its regulation and to achieve biodiversity outcomes requires a credible offset system. This includes ensuring that offsets meet their net gain requirements, that gains are fair, that the offset sites are not compromised, that the transactions are clearly documented and that compliance is followed up.***
- ***The gain scoring system should be altered to remove 'prior management gain', and security gain for offsets within conservation reserves should be reduced to at least 20% from 40%.***
- ***Offsets should require that remnant vegetation be buffered by regeneration and/or revegetation (to also include linking). This component should be included in the future equivalent of Appendix 4 of the NVMF (2002).***

4.0 VNPA response to supporting reforms

The government has also outlines a series of reforms aimed at improving the way the DSE and local governments manage native vegetation regulations. These reforms are aimed at streamlining a system currently accused of being inconsistent, slow, complex and under resourced. For example, local governments are often unable to monitor permits due to a lack of funding.

If such reforms were the only things to come from this review and were implemented in a timely fashion, we would see a vast improvement in the management of native vegetation. They should, therefore, be front and centre of the government's thinking and allocated dedicated and long-term funding. However, these reforms are proposed as *supporting reforms* to be considered in time, with no money slated for implementation.

Supporting Reform 1 - Define state and local government regulatory and planning roles

Summary of VNPA response:

- ***We support DSE working with local government on the issues mentioned above, as long as this is coupled with resources to implement any changes and also to make up for the chronic underfunding that has characterised this area of the system.***
- ***Strategic planning mechanisms can be very good but only if they are enacted with integrity and, in this case if they uphold the objectives of the NVMF.***
- ***Strategic processes also need to be informed by adequate on-site assessment and be flexible enough to account for changes in data, species or community listing status and temporal changes that affect ecosystems, plants and animals (eg. drought, flooding, fire).***
- ***Strategic processes should be overseen by a body that is independent of government and which has as its goal to ensure the integrity of the process from an ecological perspective.***

Supporting Reform 2 - Better regulatory performance

All of the potential improvements proposed within this supporting reform are very much welcomed.

Summary of VNPA response:

- ***Bi-annual reports that include but are not limited to the abovementioned factors should be made publicly available.***
- ***Two types of guidance material should be developed: 1. Technical information and guidance notes specifically for native vegetation practitioners; 2. Guidance material tailored for landowners and the public.***
- ***An independent Native Vegetation Regulator would be appropriate for approving an internal audit process.***

Supporting Reform 3 - Improve offset market functionality

In response to each of the Proposed Improvements outlined above there needs to be clear governance procedure surrounding this process.

Summary of VNPA response:

- ***The proposed role of an independent Native Vegetation Regulator would address current 'conflicts of interest' within the department as a both a regulator and a service provider.***

Supporting Reform 4 - New approaches to compliance and enforcement

Working with local government is a good proposal, as is the development of a compliance and enforcement strategy. However, we should be cautious about the proposal for applying a cost-benefit model to compliance and enforcement. We understand that at present there is very little compliance and enforcement activity undertaken at all, due to funding and resourcing constraints in local government and DSE also.

Summary of VNPA response:

- ***A compliance and enforcement strategy should have adequate and dedicated funding to ensure that the obligations of the permitted clearing regulations are being met.***
- ***This would best be delivered by developing and implementing a strategy that focuses on native vegetation and biodiversity outcomes rather than just an economic 'cost-benefit analysis'.***

Supporting Reform 5 Continuous improvement plan

This outlines some of the mechanisms that will move Victoria's native vegetation regulation system towards a system that is more in line with the Commonwealth Government's Strategic Assessment process. It is inappropriate that these mechanisms are masquerading as a 'continuous improvement plan' when they are essentially an indication that the Government intends to move us to an even more 'hands off process.

Summary of VNPA response:

- ***A continuous improvement plan should not be solely focused on reducing regulatory burden. This is a policy that should be about protecting the environment, not just making it easier for development.***
- ***An independent review of this policy should be undertaken and focus on its ecological integrity.***

2. Context and Gaps

2.1 Context for this review

The concept of 'net gain' was introduced by the Kennett Government when it launched Victoria's first biodiversity strategy in 1997 - the first such strategy to be released by a state government. It adopted the current goal that there should be "a reversal, across the entire landscape, of the long-term decline in the extent and quality of native vegetation, leading to a net gain". The first target was 'no net loss by the year 2001'. The Kennett Government also initiated Victoria's reformed native vegetation policy, published early in 2000 just after the government lost office.

These concepts were further developed and adopted in *Victoria's Native Vegetation Management – a Framework for Action* (NVMF or 'the Framework'), adopted as government policy in August 2002 and becoming statutory policy in July 2003, when it was incorporated under Clause 81 of all planning schemes.

Reviewing native vegetation regulations was not an election commitment in 2010, but it is the first piece of substantial conservation policy consultation attempted by the current State Government. There has been speculation and rumours about the review for almost 12 months. The consultation paper finally released for public comment outlines proposed high-level amendments to the clearing regulations and is titled: *Future directions for native vegetation in Victoria. Review of Victoria's native vegetation permitted clearing regulations*

Many conservation organisations have broadly supported the existing framework, but could see significant opportunities for improvement and better implementation. Victoria is after all the most cleared state in Australia.

Due to concern that the review of native vegetation laws was being undertaken behind closed doors, 36 environment and conservation groups released a joint statement on 3 April 2012 on Victorian native vegetation regulation:

To this end we support the following four key elements in any revised framework:

1) Net gain policy – that there should be "a reversal, across the entire landscape, of the long-term decline in the extent and quality of native vegetation, leading to a net gain".
2) A three-step approach to assessing native vegetation – that is, "avoid clearing, minimise clearing, offset clearing", with an emphasis on avoiding.
3) Like for like – offsets are to be as close as possible in vegetation type to the lost vegetation, or an even more threatened vegetation type, and should only be an option of last resort.
4) A robust, sophisticated and transparent vegetation quality assessment methodology undertaken by a qualified assessor to a high standard.

We request that any review of the Native Vegetation Management Framework should:

1) Be undertaken in an open and transparent manner and involve extensive consultation with all sections of the community, including conservation and Landcare groups.
2) Be informed by the best available ecological science and policy approaches, including an assessment of the economic value of vegetation and the services it provides, not just the apparent regulatory cost.
3) Aim to improve the key elements of the existing framework, including net gain, the three-step approach (especially "avoid"), like for like for offsets, and robust assessment methods that must be underpinned by strengthened monitoring and research to support adaptive management towards net gain.
4) Improve the monitoring, transparency and accounting of vegetation offsets.
5) Include no further exemptions for clearing.
6) Contain stronger incentives and education for landholders.
7) Be informed by an overarching state policy for the recovery of the health of our natural environment.
8) Be supported by a commitment from government for better funding and support for improved implementation.

(See Appendix 4 for a copy)

The review has been assigned to the *economics* unit of the Department of Sustainability and Environment (DSE) and is largely responding to the findings of a number of reviews undertaken by the Australian Productivity Commission and the Victorian Competition and Efficiency Commission (VCEC) on the *cost* of environmental regulation to business. While some of the recommendations from VCEC around streamlining and simplification have been picked up, some of the bigger top-line recommendations have been ignored - such as the need to establish an independent native vegetation regulator and regular audit processes.

At the launch of the consultation paper, Victorian environment minister Ryan Smith stated: *"We are determined to improve the government's performance as an environmental regulator, while enhancing the integrity of the permitted clearing system. This will mean less red tape, more transparent decision making and increased certainty for landholders. Most importantly, it will mean stronger environmental outcomes" Ryan Smith, Media Release* - 14 September 2012

The native vegetation rules have been a common 'whipping post' for property developers and some farmers. Some 70% of original decisions made by local councils and the state government have been overturned in VCAT, and only 3.5% of applications to clear vegetation have been refused clearing altogether, desspite the fact that the native vegetation proposed to be removed is often of 'high' or 'very high' conservation significance http://www.edovic.org.au/downloads/files/law_reform/edo_vic_monitoring_report_4-native_vegetation.pdf According to the old rules, such vegetation should be removed only in exceptional circumstances.

2.2 Overall impression of consultation paper

We understand that this consultation paper was intended to be 'high level' and ideas-based, but there is a lack of detail within the paper in a number of key areas that prevents informed comment. Further consultation on key issues is required before substantive changes are made.

It is troubling that regulations are swinging away from policies for avoiding clearing towards policies for allowing clearing, and offsetting. ['Offsetting' requires anyone clearing native vegetation to 'make up' for the environmental damage caused by clearing with money, securing an equivalent site for conservation, or (in some instances) undertaking restoration or management works].

It is equally worrying to see that the policy is geared towards a 'hands-off' approach to environmental governance; put bluntly, it appears that the policy is designed for a diminished public service and cost savings for business. While there is plenty of 'streamlining', there is no evidence to support the government's assertion that the proposed changes will mean '…stronger environmental outcomes'.

The scope of the system is already significantly reduced, with the largest source of vegetation removal permits – Melbourne's urban growth areas – having been taken out of the permit system due to the joint Commonwealth- State strategic assessment.

2.3 Areas not addressed by the review – a narrow view of native vegetation regulation

There are many important areas that are not addressed by the consultation paper or, seemingly, by this review process at all. These include:

- **The biodiversity policy context for this review**
- **Current status of native vegetation in Victoria**
- **Review of the system to date (permitted and non-permitted)**
- **Due consideration of the other values of native vegetation**
- **A whole-of-government approach.**
- **Need for a single Native Vegetation Regulator**

2.3.1 The biodiversity policy context for this review

There is no policy context. The Victorian Government has no vision, policy position or strategy on biodiversity, which inevitably creates distrust about the intent of the review of the NVMF.

The sudden shift within the proposed reforms to focus the native vegetation regulations solely on biodiversity values requires a higher policy context. Without a relevant Biodiversity Strategy or similar, this context is lacking.

There is no consideration or discussion of legislative improvements to strengthen the NVMF and other associated legislation, such as the *Flora and Fauna Guarantee Act* 1988.

Likewise many of the recommendations from previous government reviews, such the VCEC, have not been considered, such as the recommendation to establish an independent native vegetation regulator.

The review fails to consider any material beyond that which has been previously generated by the state government – for example, there is no review of best practice, either international or nationally, nor any review of independent science to inform the new regulatory approach.

The government argues that enforcement has been too hard and has been "…often undertaken reactively rather than in a proactive targeted manner (p. 20)". It then argues that left unaddressed, issues and compliance will undermine the regulatory system, and hence that the system needs to be simplified.

The report from the Australia Institute of Criminology which is used to justify this framework actually frames the issue slight differently, and argues that one of the flaws of native vegetation regulation is low public acceptance, partly due to its being a relatively new suite of laws, and that although penalties and enforcement are an important part of the regulatory package, other approaches such as education and incentives should also be looked at.

The report also notes that: "…the absence of precise methods to measure clearance activity has been found to conceal probable illegal clearance, as have unsystematic approaches in compliance monitoring and investigation of reported offences."

And

" A pattern of increasing penalties should enforce the seriousness of the offence and encourage desistance from illegal activity. However, the prevention of illegal native vegetation clearance is also likely to benefit from other tactics…" (such as education and incentive schemes).

The report also notes:

"Unfortunately, no data are published on how readily these schemes have been adopted, how successful these schemes have been in promoting compliance…."

http://www.aic.gov.au/documents/2/1/1/%7B211B5EB9-E888-4D26-AED4-1D4E76646E4B%7Drpp109.pdf

While we agree that a range of approaches is needed to properly protect native vegetation, the approach of watering down the regulations to make it easier because the government has failed to provide enough resources to do its job properly is flawed logic. Imagine if we used the same logic for road safety. This policy should not be written for a reduced staffing level or low expectations based on previous years of under-resourcing. It should aim to have a long-term outlook, aim high, and not cut corners.

Key points:

- ***This policy has not duly considered all aspects of native vegetation regulation, nor has it explored examples of international and national best practice. It has actually narrowed its focus from the previous/existing policy and furthermore is lacking a policy context.***

- ***The policy should be independently reviewed by an expert or suitable body to assess its merits on ecological grounds.***

2.3.2 Current status of native vegetation in Victoria.

The first approximation report is the only determination that has been attempted since the implementation of the NVMF to date. The first approximation report, while an important exercise, has a number of questionable assumptions, particularly relating to gains in habitat quality from public land management.

We have been informed that a second approximation report is due soon, and it would have made good sense to use the information from the second report to guide this review. This may have happened, but if so it is not explicitly stated, nor have we been privy to the same details which would allow us to respond adequately.

Key point:

- ***Adequate information on the current status on native vegetation in the State should be the starting point for this review. This should be upfront and explicitly stated. .***

2.3.3 Review of the system to date (permitted and non-permitted)

Data should have been collected and presented to inform and guide this review, i.e. has the current approach been meeting its objectives, that is of achieving a net gain in the extent and quality of native vegetation?

This would include whether the permitted clearing regulations were achieving 'no net loss'. This should have included a review of offset sites to answer the question of whether they are achieving the gains they should be achieving.

Other information that should have fed into this review includes an audit of:

- Clearing authorised by DPI under its Memorandum of Understanding with DSE;
- Clearing under exemptions; and
- Illegal clearing.

Data or informed estimates in each of these areas should be imperative in order for this policy to be adequately reviewed.

A consultation process with native vegetation practitioners should have been undertaken, or a committee established with representatives from relevant industry groups, i.e. local government (including both urban

and regional local government staff), ecological consultants, and DSE staff (including both urban and regional staff). These people work with the Framework every day, know its strengths and weaknesses, and should have been called on in the early stages of the review to help frame its scope.

Key point:

- ***Data on the amount of loss of vegetation through non-permitted means is integral for undertaking a review of this kind (even if it is approximate). If this information has already been collected, it should be reported to help others to provide informed comment.***

2.3.4 Due consideration of the other values of native vegetation

We can compare the Victorian review process with the work of the NSW government's native vegetation advisory panel, which considered the value of native vegetation from a number of perspectives The advisory panel at the time also undertook a detailed assessment of the economic values, not just the apparent regulatory costs. While in need of updating, this report, *Economic Values of the Native Vegetation of New South Wales, a background paper of the Native Vegetation Advisory Council of New South Wales* (Gillespie 2000), gives a good description of the value as well as the costs associated with retaining native vegetation. A similar process should be undertaken in Victoria, before any dramatic changes are made to the scope of the regulatory system.

The economic values associated with native vegetation comprise both use and non-use values. Use values involve people physically using or experiencing native vegetation and the attributes it provides, and deriving value from this use. These use values comprise both *direct use* and *indirect use values...*

Direct use values of native vegetation to the landholder, adjoining properties and, in some instances, the broader community, include:

- benefits for adjoining crops
- benefits for adjoining pasture growth
- benefits for livestock production
- timber for firewood, fencing and brushwood
- forestry
- increased agriculture production owing to onsite land degradation control
- increased agriculture production owing to offsite land degradation control
- honey and beeswax production
- seed collection
- aesthetics for the landholder's property, adjoining properties and, indeed, the region
- habitat for animals that help control pests
- tourism and recreation
- research, education and monitoring
- food
- medicinal and perfume resources
- wildflowers and native plants
- other minor uses.

Indirect use values include functional benefits derived from a reliance on natural ecosystems for life-support functions through the provision of clean air, water and other resources, and the conservation of biodiversity.

Non-use values are enjoyed without direct or even indirect contact with the native vegetation. These non-use values comprise *option values, quasi-option values, vicarious use values, bequest values* and *existence values.*

For example, a study as part of the activities of the working group producing the report *Sustaining our Natural Systems and Biodiversity* for the Prime Minister's Science, Engineering and Innovation Council in 2002 summarised the following values for native vegetation from an Australia-wide perspective.

Collateral benefit	**Estimate of value (2002)**
Dryland salinity	$110 per ha pa
Soil erosion	$10 per ha pa
Carbon sink	$1,400 per ha bush
Clean water	$230m pa
River salinity	$46m pa
Water regulation	Road damage - $45m pa
Pollination	$1b pa
Tourism	$6.6b pa total
River recreation	$259,200 per 10 km river
Landscape aesthetics	$226,800 per 10,000 ha

Source: Possingham et. al. 2002

See Appendix 3 for more detail.

Key points:

- ***Native vegetation is very much valued by the community and provides very good value when it is retained.***
- ***New data to approximate the value of native vegetation for <u>all</u> the values it provides should have been made to inform this review.***

2.3.4 A whole-of-government approach is required

In relation to clearing authorised by DPI, we have examples of where DPI has given approval for clearing of native vegetation largely without adherence to the requirements of the Framework. This has included for mining activity, and utilities such as pipelines.

One example that occurred recently in Skye, south-east of Melbourne, is the installation of a crude oil pipeline requiring clearing to a width of 30m through a largely vegetated area that extended for 1.8 km of a total 5.5 km (the remainder was largely cleared land) resulting in approximately 1.5 Habitat Hectares of damage. There was no requirement for this pipeline to 'avoid and minimise' its impact, and the impact that it caused is great, considering that this bushland is potential habitat for the Southern Brown Bandicoot. Landholders are able to choose how they would like the cleared area rehabilitated, and in essence they could choose to have it replaced with Kikuyu. Local government is not involved with the decisions being made in its area and the outcomes are poor. See Appendix 5 for a map showing the area affected.

Another is where in Gippsland, a water authority is required to go through the permit system with local government and seeks to avoid and minimise and then use strict on-site regulation to ensure that damage to native vegetation is minimised. Conversely, an electricity supplier working nearby is not required to adhere to any of these requirements and is free to cause damage in its planning phase (or lack of it) and then on site.

Key points:

- ***A consistent whole-of-government approach to native vegetation regulation is required. Without this, the system lacks integrity and fairness and poor outcomes result.***

2.3.5 Need for a single Native Vegetation Regulator

Many of the proposed strategic directions in the consultation paper picked up on issues raised in the Victorian Competition and Efficiency Commission 2009, *A Sustainable Future for Victoria: Getting Environmental Regulation Right,* final report, July.

While this report was tabled and responded to under the previous Brumby Government, the Baillieu Government has not gone back to some of the more fundamental reforms proposed in this area. One of the top line recommendations in the VCEC report was the establishment of an independent native vegetation regulator. This recommendations was ignored in the current review of native vegetation rules.

The VCEC commented that:

"The interplay of a number of factors, namely a lack of clear accountability, a lack of qualified resources, and an inherently high level of complexity in the regulations and guidelines, has led to a 'blame game' where, in response to criticism from stakeholders about inconsistent implementation, high administration costs and poor compliance and enforcement, councils and DSE have blamed one another for any shortcomings. In addition, the combined role of DSE as policy-maker and as a key regulatory body, increases the difficulty in identifying whether the main causes of perceived shortcomings in native vegetation relate to the policy framework or to its implementation. In light of this, the Commission has formed the view that a fundamental reform of present organisational arrangements is necessary to help drive long-term improvement in this area of regulation." (p. 160)

"To achieve a clearer separation between the high-level policy and the regulatory functions, the Commission is proposing that a Native Vegetation Regulator (NVR) be established with responsibility for undertaking the technical assessment of proposals to clear and offset native vegetation ".

According to VCEC the main benefits of this model are:

- providing singular accountability for administration of the regulations and the achievement of the Government's objectives for native vegetation regulation
- clarifying responsibility for identifying and protecting areas of significant vegetation, as part of a more strategic approach
- improving consistency in the administration of the controls due to one entity (the Native Vegetation Regulator) assessing all permit applications or overseeing these assessments
- streamlining the administrative arrangements for businesses as they would need to deal only with one regulator of native vegetation (the Native Vegetation Regulator).

Key point:

- ***The review has ignored key recommendations from the earlier review by the VCEC to establish a single native vegetation regulator.***

3.0 RESPONSE & ISSUES

Detailed responses to consultation paper priority and supporting reforms

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3.1 Specific response to consultation paper priority reforms

3.1.1 Priority Reform 1

Priority Reform 1	Aim	Proposed Action(s)
Clarify and amend the objective for permitted clearing	To clarify the objective for permitted clearing regulation so that it is clearly distinguishable, easily communicated and appropriately focussed.	1.1 Clarify and amend the objective for permitted clearing in policy documents, and in the State Planning Policy Framework and the relevant particular provisions in the VPPs. The proposed objective is: *no net loss in the contribution made by native vegetation to Victoria's biodiversity*.

VNPA Response

There are four key issues:

- **'Net gain' should be the single objective**
- **Public understanding of biodiversity**
- **Measuring 'contribution' to biodiversity**
- **Role of vegetation in land health and ecosystem services**

'Net gain' should be the single objective:

The VCEC (2009) states that the objective for native vegetation regulation should be clarified. This is due to the fact that DSE has sent two separate messages about the objective, leaving everyone confused.

For most people it is clearly stated that there should be a Net Gain in the extent and quality of native vegetation. This is clearly written as the goal in the Native Vegetation Management Framework (p. 14, 2002). There are also follow-up DSE documents, including the VPP Practice Note *Native vegetation offsets* (September 2008) which states that that an '.offset should: achieve a gain in the quality and quantity of native vegetation commensurate with the native vegetation lost'. It was not until the Government's February 2010 response to VCEC's 2009 investigation into environmental regulation (eight years after the introduction of the Native Vegetation Framework) that the aim of 'no net loss' is formally recognised in a government (Treasury) document. No wonder there is confusion! It appears to be a case of re-writing history by government itself.

Essentially the idea is that, at a statewide level, 'gains' are achieved through additions to the reserve system, management in reserves leading to improvements in the condition of the bush, or other investment. The 'no net loss' idea is restricted to 'permitted clearing' only, and gains through government investment and tree planting, or offsets equal to the amount lost through clearing.

The dual objectives have created confusion. In our view, the objective should always be 'net gain'. In logical terms, the difference is of course between zero and a gain of as little one hectare.

No ecological justification has been provided to explain the change from 'net gain' to 'no net loss', and this in fact entrenches the level of confusion. There should be one objective: 'net gain'.

Public understanding of biodiversity

Furthermore, the proposed objective is not only confusing to the general population (Victoria Naturally market research shows that the majority of the community is not familiar with the word 'biodiversity' and has no idea what it actually means, as shown in Appendix 1). Some examples from the research are as follows:

"Bio means two and then there's diverse, so it could be like two things living together." (Werribee)

"Investment in generating electricity, fuel for cars that are less polluting." (Werribee)

"Breaking down natural products, like in desalination and recycling."(Stawell)

"The dinosaurs die and other species come in." (Stawell).

Measuring 'contribution' to biodiversity

The language used in the government report is also unclear. While biodiversity outcomes are talked about, much of the key decision criteria appear to focus only on threatened species and not biodiversity as a whole.

The proposed altered objective also appears to be confusing to DSE, as the methods proposed to measure the values of sites (being native vegetation, extent, and value for threatened species) cannot be used as a surrogate as a measure for 'biodiversity value', which is *the diversity of all life-forms*. 'All life-forms' includes everything from vertebrates to micro-organisms and from eucalypts to algae. For example, the consultation report defines biodiversity as *"The variety of all life forms, the different plants, animals and micro-organisms, the genes they contain, and the ecosystems of which they form a part"*

The three measures proposed (native vegetation extent, quality and value for threatened species) are not adequate for the purpose of meeting the proposed objective, as they do not include any measure of the 'diversity of species' at any one site. If the objective were to be accurate it would refer to 'a net gain or no net loss in *native vegetation extent, quality and value for threatened species persistence'*.

Biodiversity has three main components: **composition, structure and function.**

1. **Composition** includes the identity and variety of elements within a system. The three levels at which biological variety has been identified are:
    - genetic diversity – the total number of genetic components that make up a species. This includes populations, significant taxonomic units and individuals. At the level of biological populations, genetic variation among individual organisms is a signature of their evolutionary and ecological past, but also a basis of future adaptive evolutionary potential. Species that lack genetic variation are thought to be more vulnerable to extinction from natural and human induced environmental changes.
    - species diversity – the number of species and their relative abundance.
    - ecosystem diversity – the diversity of ecosystems.
2. **Structure** is the physical organisation or pattern of a system and includes habitat complexity, patch patterns and the elements within a landscape.
3. **Function** involves physical, ecological and evolutionary processes including nutrient cycling, disturbances and gene flow (VEAC 2010)

How does the proposed methodology address these three main elements of biodiversity? The examples in Figure 7 (page 25) suggest that measurement of the biodiversity value is "intactness" and "important habitat for rare and threatened species". These are not necessarily measures of biodiversity, but rather surrogates or criteria, and are being blurred together within NaturePrint.

This raises a number of questions:

- Will there be a number for native vegetation and a number for threatened species?
- Which threatened species will be included?
- Will it be only the ones which currently have had Species Distribution Models developed?
- How will other species' values be determined?
- How will ecosystem function be assessed?

For example, species that have only local distributions and are not linked to specific floristic assemblages (Eltham Copper Butterfly, Altona Skipper Butterfly) or have habitat requirements that we do not have mapping data for (Powerful Owl and its requirement for hollow-bearing trees).

Are we to imagine that we will use the 'colour gradient' that is currently shown in NaturePrint, with no clear understanding of what specific values a 'purple site' represents versus a 'pale yellow site'? Who will be deciding all of this and how will we or anyone know whether these decisions are valid? What is the use of a system that only the modelling staff of DSE understand?

While the idea of maintaining vegetation for overall biodiversity could be a useful objective if it could be contextualised with a statewide target or an over-arching policy, currently the methodology proposed does not meet the proposed objective of "…*contribution made by native vegetation to Victoria's biodiversity*".

Role of vegetation in land health and ecosystem services

The consultation paper states:

"The biodiversity objective for permitted clearing is often considered alongside a number of other objectives in the planning system, including the implications of vegetation removal on visual amenity, cultural heritage, land protection and water quality. Furthermore some of these considerations are specific to particular local planning scheme objectives, while others are outlined in state government policy. This approach is intended to enable integrated decision making about vegetation removal. However, in practice there can be confusion about how these objectives should be considered in decision making, and when determining permit conditions. The lack of clarity and demarcation of responsibilities for these varied native vegetation objectives has created unnecessary complexity and costs for landholders, and reduced accountability for decision makers." (page 16).

"Other benefits that native vegetation provides, such as land and water protection, can continue to be considered as part of the application process for a permit to remove native vegetation. However, it is proposed that this consideration be clearly distinguished through separate fit-for-purpose decision guidelines, and not be informed by the biodiversity related rules and guidance material."

A clearer distinction between considering native vegetation for biodiversity, and for other purposes, would also improve the functionality of the regulations. This includes providing clarity about the basis on which decisions are made, and ensuring that conditions placed on a permit are focused on the outcomes desired."
(Page 26)

No evidence is given to support the idea that integrated assessment is confusing, and the various statements in the document are contradictory and unclear. The low level of community awareness of the role and meaning of biodiversity will inhibit community understanding of the multiple roles that native vegetation plays.

If the objective was to focus solely on biodiversity value, there is a chance that there may not be any other mechanism to ensure that there is adequate consideration of the other important benefits that native vegetation brings. This includes providing clean air and water; controlling erosion, land slips, salinity and nutrient loss; and providing resistance to climate change, as well as recreational and cultural opportunities.

Failing to address these other values adequately will lead to native vegetation being undervalued and therefore more often cleared, and will also lead to greater confusion and duplication, rather than the stated intent of making the regulations easier to understand for landholders. Native vegetation has a clear role in broader land health and ecosystem function..

At a strategic level, surely the aim should be to provide clearer integrated assessment criteria for the multiple roles of native vegetation, not create separate measures for biodiversity alone.

The Framework currently says:

"In order to achieve the goals for native vegetation management, application of the Net Gain approach needs to be linked to the land protection and conservation significance of the native vegetation in question. For land protection, the significance of a patch of vegetation (from the point of view of both hazard avoidance and mitigation) is determined according to:

- the role of the site in surface and groundwater behaviour,
- the erosion hazard and soil structure characteristics of the site,
- the ability of the vegetation to provide an ongoing land protection role,
- the productive capability of the site, and
- other recognised criteria (for example, whether climatic conditions favour rapid re-establishment of vegetation cover)."

This is not all that helpful. Slope is useful but needs to be linked to soil type and proposed land-use. What we need is an integrated on-line mapping tool with layers that identify:

- Water erosion risk based on slope, soil and position on slope - this would give us a standard hazard rating to be used to assess against the likely on-going soil loss from categories of proposed land use.
- Land slip and mass movement risk vs slope
- Wind erosion risk
- Salinity recharge potential and saline discharge risk (all of which have been modelled)

Rather than decouple land protection from biodiversity, consideration should be given to an integrated model. For example, land protection information could link to NaturePrint.

In the meantime, the Framework words could be amended to improve recognition of land protection values:

- For land protection, the significance of a patch of vegetation (from the point of view of both hazard avoidance and mitigation) is determined according to consideration of the extent of the clearing and:
- the role of the site in protecting the quality and behaviour of surface water and groundwater and in protecting a healthy aquatic environment,
- the risk of erosion by water, including consideration of the slope of the land (particularly slopes over 20%), the landform and the position on the slope (particularly sites subject to significant overland flows after rain), the degree of susceptibility or stability of the soil, its susceptibility to tunnel or gully erosion, and the probable extent of on-going loss of earth material and during land-use change,

- the role of the vegetation in preventing wind erosion, particularly in coastal fringes, the Mallee and alpine areas, including consideration of the susceptibility of the soil and the exposure of the site to wind,
- whether the site is identified in salinity management plans as significant for contributing to recharging saline water tables, and any likely increase in recharge, including consideration of contribution to incremental increases, as a result of the proposed clearing and replacement activity,
- the importance of the vegetation in restricting the expansion of existing or potential saline discharge areas,
- the risk, on or in the vicinity of the site, of landslip or other mass movement and any increased likelihood of land instability, particularly on steeper slopes (greater than 20%), and land above steeper slopes, in landforms that exhibit evidence of past land instability.
- the ability of the proposed land-use to provide ongoing land protection role to the same level as the native vegetation that is proposed to be removed or destroyed, both during development and in the long term,
- the susceptibility of sites above 1200 metres altitude to frost-heave erosion and the extreme difficulty of any required vegetative rehabilitation,
- where the proposed land use includes agriculture, horticulture, timber production, revegetation, gardens or the like, the capability of the site to effectively and economically support the activity and provide adequate and ongoing protection of the soil, and
- other recognised criteria (for example, whether climatic conditions favour rapid re-establishment of any replacement vegetation cover required).

Likewise there are probably other ecosystem process or service values which could be incorporated to create a truly one-stop shop for assessing the value and making decisions about native vegetation.

Summary of VNPA response:

- ***The new objective of 'no net loss' is not supported and the existing statewide objective of 'net gain' should be retained in the permitted clearing regulations.***
- ***We believe that the proposed change will add further to confusion among landholders. We recommend that the clearing regulations retain language that is clearly understood and reflects the methodology applied in the policy.***
- ***The proposed new policy fails to explain how the new methodology will measure native vegetation's 'contribution to biodiversity' seeming to rely instead on native vegetation extent, quality and value for threatened species as surrogates.***
- ***Native vegetation's role and value for land protection and ecosystem function should not be de-coupled but rather better integrated using on-line tools to deal with issues such as erosion, land slip etc.***

3.1.2 Priority Reform 2

Priority Reform 2	Aim	Proposed Action(s)
Improve how the biodiversity value of native vegetation is defined and measured	Reduce costs and improve accuracy in measuring the biodiversity value of native vegetation through improvements in mapping and modelling approaches, and the site assessment method.	2.1 Develop a purpose-built information system that measures biodiversity value and prioritises locations across the state for conservation. This system can inform application assessment pathways, decision-making guidelines and offset requirements (to inform NaturePrint). 2.2 Map locations in the landscape for their importance as habitat for rare and threatened species (conservation significance) using species distribution models rather than point data and subjective decision-making. 2.3 Update the Habitat Hectares methodology so that it incorporates current technology and scientific understandings of biodiversity, using spatial models for assessment of 'low impact/risk' clearing, rather than site-based assessments. 2.4 Improve publicly available information on the biodiversity values of locations – particularly for landowners.

VNPA response.

Improving the data available to inform any decisions about native vegetation management is important. However, we see a number of issues:

- **Replacing on-site assessment with NaturePrint for 'low impact' sites**
- **Determining conservation significance– don't throw the baby out with the bathwater**
- **Continuous data collection and research is needed**
- **Improvements to the Habitat Hectare methodology and determining conservation significance**

Replacing on-site assessment with NaturePrint for 'low impact' sites

Currently, an on-site assessment must be carried out, usually by an ecological consultant, before native vegetation can be removed.

This hands-on approach means landowners receive expert advice about flora and fauna, which in turn alleviates undue damage to native vegetation and helps landowners meet regulatory requirements.

The consultation paper states that the cost of on-site assessment has been too great for landowners and wants to largely remove this requirement for the 'majority' of landowners.

Instead, sites will be assessed remotely using existing information (maps, modelling, etc). If the proposed clearing is deemed to be low impact, it is unlikely an on-site visit will be conducted. Although the previous assessment methodology has been criticised by many (including assessors) for being inadequate for determining the value of the vegetation for threatened species, the new method, even though it appears to simplify things, may create further problems.

Whether a site should be cleared will rely on the modelling and mapping currently used to guide decision-making at a regional or statewide scale, and these maps cannot at this time be relied on to provide

guidance at a site scale. These models, originally developed to inform a statewide strategy, are too high-level or 'coarse' for making on-ground decisions – it is like trying to find your local milkbar with a map of Victoria.

Indeed, a Nature Print information sheet states that: *"…the models/maps are not suitable for fine scale applications beyond the resolution of several hundred metres* (p.6, DSE Factsheet: NaturePrint:Terrestrial SDMs). This indicates that it is not appropriate for use at a property scale.

In our experience, some of the data that is fed into these maps is very rough. Widely known to be unreliable for determining the presence or absence of native vegetation, the maps often wrongly indicate the vegetation type, and there are many gaps in information about the occurrence of different species.

While modelled and mapped data should inform decisions, it should not take the place of onsite assessment and should not be relied upon by itself. We believe this approach will be unfair and lead to many legal challenges, especially when the computer model says NO on one side of the fence and YES on the other.

On-site assessment should not be abandoned altogether for 'low-impact' sites. There is merit in perhaps a streamlined rapid assessment approach, using either a shortened habitat hectare methodology or similar.

Determining conservation significance– don't throw the baby out with the bathwater

We also believe that the current method of determining the Conservation Significance of a patch of vegetation is generally still valid, in that it provides a transparent method that can be checked and easily understood by another native vegetation practitioner or regulator. DSE staff have raised issues around the value of the validity of the information provided via this method of determining Conservation Significance ratings, particularly in relation to an assessor's decision for whether the patch represents the 'best 50% of habitat for a threatened species' or the 'remaining 50% of habitat' for a threatened species (often referred to as the 'best and rest' determination). It has been stated that DSE believes that many of these assessments are based on little recorded data and result in a subjective overestimation of the value of the patch as habitat for the threatened species. There are a few points to consider when responding to these comments:

1. DSE is criticising the results of a method that it requires assessors to comply with, often using data that DSE also provides.
2. DSE is also assuming that assessors are misinformed about the quality and extent of habitat for threatened species without having ever consulted with ecological consultants (the main group of assessors) in this area. In fact, within most ecological consultancies there are botanists and zoologists who have significant expertise and many years of experience working right across the State, so have a good awareness of the habitat available to threatened species. Furthermore, many of these people are considered 'expert' and in fact are called upon by the Government itself to provide their expert opinion on the habitat value of vegetation for threatened species.

The 'best and rest' determination is often the most important decision within the current methodology and often results in the Conservation Significance of a patch being elevated. Consequently this may be the main factor in the fact that many applications are for vegetation that has been determined to be of Very High conservation significance. However, as Victoria is the most cleared State in Australia with much of the development pressure occurring within landscapes that have traditionally been settled, it should not be so surprising that much of the vegetation within these areas is so important.

Following the introduction of the NVMF it appears that politically, having too much vegetation classified as of Very High conservation significance is 'inconvenient'. The Framework states that vegetation of this type should generally not be cleared, and if it is it requires the approval of the Minister. However, we know that in practice this vegetation type is generally allowed to be cleared. A recent review of the

Framework by the EDO states that: *In the previous two financial years, where DSE has been the referral authority, a very large proportion of remnant patch clearing was of 'high' or 'very high' conservation significance (73.2% in 2009–10 and 80% in 2008–09). Some 46% of scattered trees were of 'high' or 'very high' conservation significance in 2009–10. Similarly, in relation to major project approvals and native vegetation precinct plans, a staggering proportion (more than 99%) of clearing approved by DSE for remnant patch vegetation concerns vegetation of 'high' and 'very high' significance. More than half of clearing approved by DSE in relation to planning permit applications is similarly of 'high' or 'very high' significance (EDO 2012, p. 15).*

DSE has attempted to address the uncertainty that exists due to data gaps surrounding threatened species by developing Species Distribution Models that combine existing point data with habitat requirement information to predict likely locations for each species. As stated earlier, these models are not yet adequate to confidently predict the importance of a patch of vegetation for any given threatened species, and should not be relied upon in isolation.

In response to all these considerations, we think that a satisfactory method is to retain the current methodology to determine conservation significance, whilst adding the requirement to also consider NaturePrint value. We provide our suggested updated methodology in Appendix 2.

Continuous data collection and research is needed

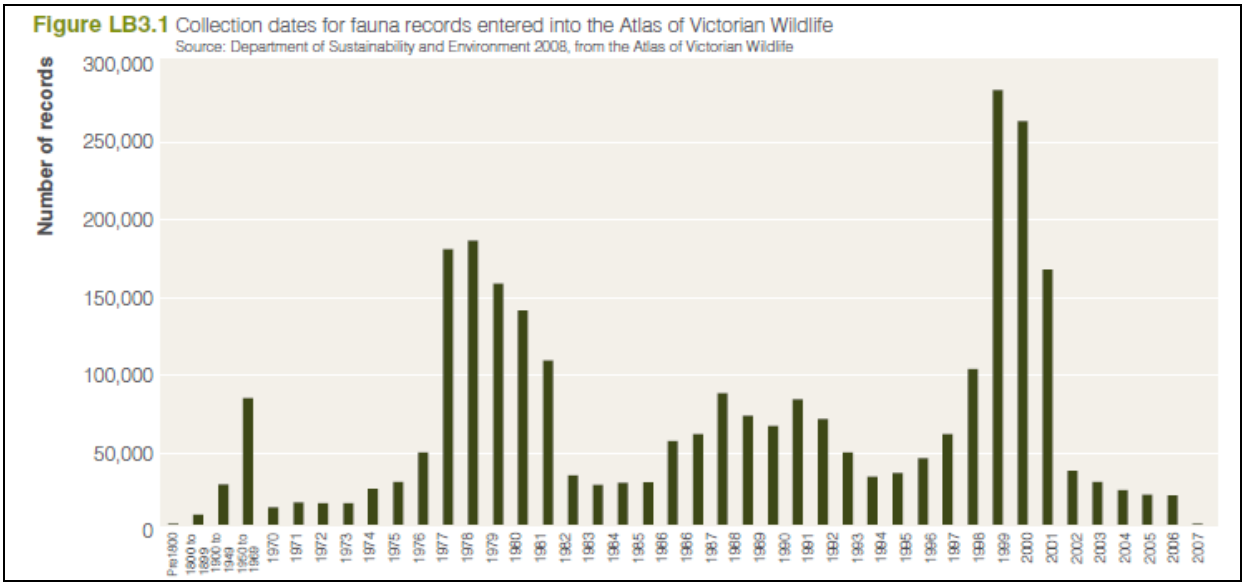
There has always been a need to have higher levels of flora and fauna surveys to inform decision making. However, should NaturePrint be elevated to having the status of a statutory decision-making tool, then the quality of the data that feeds into it and its ability to be continually improved are imperative.

The Victorian State of the Environment report (CfES 2008) noted:

"Biological surveys are crucial to any assessment of the conservation status and distribution of a species. For animal species, and particularly vertebrates, the main repository for such information is the Atlas of Victorian Wildlife, administered by the Department of Sustainability and Environment. There have been three main peak periods for fauna surveys: 1978–1981, which produced surveys to inform Land Conservation Council (LCC) investigations; the LCC pre-logging surveys in 1986–1994; and 1999–2002, when the new Birds Australia Atlas data became available (see Figure LB3.1 below). **The mid- to late 2000s has seen a dramatic drop in the data being collected and entered into the system**. The majority of records in the Atlas are for birds, with relatively few for fish and invertebrates." [emphasis added]

While there has been some increase in data collection, following recommendations from the Victorian Bushfires Royal Commission, the on-going collection of data needs to be maintained and should be increased if models such as Nature Print are to maintain accuracy and integrity in the future. This requires some additional government investment.

We support the he State of the Environment Report recommendation: *The Victorian Government support an enhanced strategic, coordinated and ongoing level of survey effort for Victoria's flora and fauna so that the distribution and conservation status of Victoria's plant and animal species can be confidently determined and resources allocated to species conservation in a cost-effective manner* (CfES 2008).



As NaturePrint was developed as a state-wide planning tool – as part of the proposed, but now dropped, statewide Biodiversity Strategy - it may be a useful tool for guiding locations and planning for offsets. It should not, however, be the only tool used.

Offsets are a controversial concept for many people. It would have been useful to have some supporting information regarding the current offset schemes running, their success or potential failure.

The key issue is that most of the gains assumed to be achieved from offsets have not been demonstrated to result in a physical gain in habitat value (see response to priority reform 4)

Improvements to the habitat hectare methodology and determining conservation significance

There are some key areas relevant to the habitat hectare methodology and determination of conservation significance that are weak and require revision. We outline these below.

Treeless vegetation habitat scores

It is our view that the treeless vegetation habitat scoring method has never been satisfactory. This is an opportunity to replace it and to incorporate other satisfactory methods for other special ecosystems such as wetlands, grasslands, alpine areas, scrubs, etc.

The treeless vegetation assessment method was developed under the limitation set in the Framework that the method was to consider only the ten site conditions and landscape components that it listed – seven site components and three landscape components. The Framework also required the use of the method outlined in the scientific paper that it specified. *Native vegetation at a site is assessed by comparing it to a benchmark which represents the average characteristics of a mature and apparently long-undisturbed stand of the same type of vegetation. General vegetation/habitat quality is scored from one (complete retention of natural quality as described by benchmark characteristics) to zero (complete loss)* – (Parkes et al. 2001). This paper therefore arguably has the status of a reference document.

This restriction of methodology has been of significant benefit in preventing others from introducing their own methods to assess habitat, but has also limited DSE in enabling special methods to be used for particular ecosystems, such as wetlands, for which the Parkes et al. method is inappropriate.

The treeless vegetation method therefore uses the three site condition components of the seven specified in the method that can be applied to such vegetation and includes a fourth (recruitment), but totally modified from the specified method. So, in effect, it is already not consistent with the Framework. The

method also deletes assessment of site components that are not present in treeless vegetation, such as large old trees, tree canopy and logs. It ensures that site condition assessment remains 75% of the overall habitat score (maintaining the landscape context assessment at 25%) by multiplying the sum of the four site components by 1.36.

The resultant scores are, in our opinion, unreasonably high compared to actual biodiversity value. If secondary grassland, consisting of a couple of primary-coloniser tussock grasses and no herbs, re-establishes on an old cropping paddock, its score could be as follows:

COMPONENT	SCORE	RATIONALE
Understory	5	minimum score for some understory present
Lack of weeds	4	assume less than 50% weed- high threat
Recruitment	6	mowed or grazed to 30% cover with no herbs
Organic matter	5	>50% benchmark litter cover
Total	20	
Adjusted total	27	using the multiplier 1.36

If this were part of an extensive disused cropping farm or close to other large remnants, it may also receive a landscape context close to 13, making this "grassland of VERY HIGH CONSERVATION SIGNIFICANCE". This is patently wrong. The minimum it can be, according to the Framework, is 'high conservation significance' (though DSE has had to invent a non-statutory definition of degraded treeless vegetation for it to be able to dismiss its consideration of this kind of grassland). It is recognition that such grassland is not even of high or medium conservation significance, yet the method says otherwise. The situation is so serious that it has been known for a disreputable consultant, acting more as an advocate for the project rather than an independent expert, have actively sought and "found" evidence of past presence of trees so as to enable the use of a woodland benchmark, and thus achieve a far lower habitat score for the client. In this case, it would be a site condition score of 14 compared to 27.

There are no significant differences between the scores of truly diverse treeless vegetation (such as well-managed remnant grasslands) and degraded or volunteer recruitment grasslands. Now the Framework is to be reviewed and the method is not necessarily required. As a result, truly diverse grasslands and average grasslands are both categorised as Very High Conservation Significance. As a result, developers are unfairly impeded by grasslands with apparently high scores but few values, and low-quality grasslands are accepted as suitable offsets for valuable grasslands.

We believe this review presents an opportunity to replace a method that places most weight on the value of diverse grasslands and gives more weight to the total number of species present. With grasslands, it may be necessary to limit the assessment period to late spring or early summer and include evidence of dead herbs in the diversity assessment. The method could also weight the score in favour of species found in remnants but not commonly found in recolonising areas, which are little better than low-diversity revegetation.

We also believe that this is an opportunity to incorporate the Index of Wetland Condition Assessment as a formally recognised assessment methodology.

Low and Medium Conservation Significance for Endangered EVCs.

We believe that the anomalies caused by not having low and medium conservation significance categories for endangered EVCs are counterproductive to protecting valued areas and create unreasonable obstacles to developers. Similarly, Vulnerable and Rare EVCs should be able to be assessed as low conservation significance if the habitat quality is so low and have management requirements that are too high to be of little value in contributing to rehabilitating that EVC.

We recommend that the habitat score values for these bioregional conservation statuses in Appendix 3, Table 5 be reviewed to ensure that High or Medium is not the minimum conservation significance possible for any BCS category.

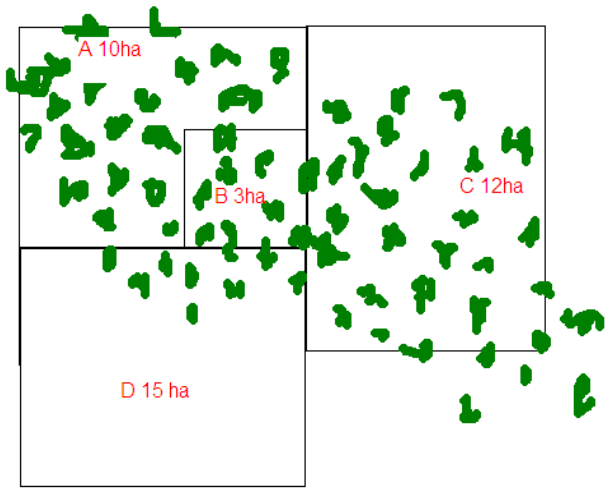
Large old trees

The Framework values large old trees (as defined in EVC benchmarks). It says: *Large old trees are important environmental assets that are being progressively lost through clearing and declining health but are impossible to replace in the short term. Whilst recruiting new trees for the future is very important, replacement ratios cannot address the need to retain, and improve the on-going survival of, as many large old trees as possible in the current landscape*.

We support this principle. However, the Framework goes on to largely dismiss the value of old paddock trees, particularly if they are isolated, unless they were formerly part of an endangered EVC. We do not support this. The Framework is prejudiced in valuing old trees from threatened EVCs that are in extensive stands sufficiently dense to represent the old tree component for re-establishing that EVC. It says: *[Relatively dense stands of scattered old trees] can be the most common way that some vegetation types (e.g. Plains Grassy Woodlands) still occur and the best stands represent possible options for the recovery of these vegetation types.* It goes on to require far more onerous offset requirements for these stands than for less dense stands. This defies DSE's own research about the value of particularly very large old trees, even isolated paddock trees, in providing diverse habitat for bats, birds and a range of beneficial invertebrates. It demonstrates a very botanical prejudice.

We suggest that the assessment of the value and offset requirements of old trees be revised. While we are not opposed to providing extra protection and offset requirement for relatively intact stands of scattered trees, the value of old trees, particularly stands of very large old paddock trees, should be recognised even though they may not meet the definition for re-establishing the EVC. After all, in farming country where sparsely-scattered old trees on a former endangered EVC are adjacent to similarly scattered old trees from a former EVC of least concern, the immense habitat value of both, particularly if they are very large old trees, are of similar value.

Also, the method of determining whether old trees are in a sufficiently dense group to warrant more demanding offsets is flawed. Currently, the average minimum density must be maintained across an entire parcel, which is interpreted as an allotment, no matter how much bigger than the minimum allotment size specified of 4ha the allotment is. This gives rise to terrible ecological anomalies.



In the diagram, the stand of relatively dense trees (denser than illustrated) passes across more [?] than four parcels or land. However, only those in allotment A and possibly C have the average density across the entire allotment and the allotment size >4 hectares to require the special protection of more demanding offsets. The Framework says: *Protection of existing trees will be required for offsets in parcels of land which are greater than 4 ha in area and have 8 or more large old trees per hectare. Recruitment of new trees will be required for offsets in parcels of land which are greater than 4 ha in area but have less than 8 large old trees per hectare.* Allotment B, despite being in the centre of the stand, is too small to require the special protection offered by a more arduous offset requirement. Allotment D, though clearly an integral part of the stand, lacks the overall average density of 8 trees per ha required across the allotment. Ecologically, this is ludicrous.

Summary of VNPA response:

- ***We support an improved method of determining natural values in the landscape***

and in particular support research and data collection that will help to update and improve these methods.

- ***We do not believe that Nature Print is currently suitable for use at the property scale and should only be used in conjunction with existing assessment criteria and site-based assessments.***
- ***On-site assessment should not be abandoned altogether for 'low-impact' sites. There is merit in perhaps a streamlined rapid assessment approach, using either a shortened habitat hectare methodology or similar.***
- ***There needs to be on-going significant investment in ecological monitoring and data collection to inform future models.***

– ***In relation to updates for the habitat hectare methodology (including conservation significance) we recommend the following:***

- ***The habitat score values for all bioregional conservation statuses in Appendix 3 Table 5 should be reviewed to ensure that High or Medium is not the minimum conservation significance possible for any BCS category***
- ***This review should provide the opportunity to include alternative methods (other than the current version of the Habitat Hectare method) for treeless vegetation (Alpine areas, grasslands, wetlands, Scrubs, etc.)***
- ***The revision should recognise and define very large old trees.***
- ***A separate conservation significance table (derived from Appendix 3, Table 5) should be developed for old trees, rather than using the existing one and assuming a habitat score of zero. This table may give a different conservation significance***
- ***The habitat value of particularly very large old trees should be recognised, regardless of the BCS.***
- ***The basis of determining a "relatively dense stand of scattered trees" should be revised to be based on the area of the stand, not the specification of the property allotments.***
- ***The framework does not specify offsets for small trees, and this should be addressed.***

3.1.3 Priority Reform 3

Priority Reform 3	Aim	Proposed Action(s)
Improve decision making	Protect high value biodiversity assets through targeting the mitigation hierarchy to situations where the impact of native vegetation removal is highest. Reduce regulatory burden for the majority of landowners by simplifying the permit process for low impact clearing, which accounts for the largest proportion of permit applications. Reduce administrative costs for government and better protect native vegetation of high biodiversity value by targeting resources where the impacts of clearing are highest.	3.1 Embed in the planning system a tiered, risk-based approach to processing applications for permits to remove native vegetation, including what information is required to be provided, focusing on the biodiversity impact of the removal, and this should be formalised in the planning system. 3.2 Update the permitted clearing decision, making guidelines to better facilitate consistent outcomes and risk-based decision-making. Update should include: - applying the mitigation hierarchy based on the risk and impact of the proposal to remove native vegetation - considering the relative costs and benefits of retaining or removing and offsetting vegetation overtime 3.3 Develop separate decision-making guidelines for considering native vegetation removal in relation to biodiversity outcomes, and for other outcomes.

VNPA Response

We see a number of key issues in response to this priority reform:

- **Administrative costs of Native Vegetation Permits – is it really worth it?**
- **It is reckless not to address the issues associated with 'low impact' clearing.**
- **Upfront requirement to avoid and minimise is useful and effective.**
- **Transparency and accountability are paramount.**

This risk-based approach was introduced as a recommendation of the VCEC (Department of Treasury and Finance, 2010a).

In theory a risk-based approach has some merit, and with some clear provisions in place could assist in delivering better environmental outcomes. However, this is one key area in which we have not been provided with sufficient information to respond with an informed comment. The key issue is what will be the threshold to determine 'low impact'. This has not been explained or clarified in the proposed changes.

Priority reform 3 has as one of its aims to *reduce regulatory burden for the 'majority of landholders'* by simplifying the permit process for low-impact clearing which accounts for the *largest proportion of permit applications*. So we know it will be the 'majority' and we know that on average there are at least 4500 permit applications per year (based on DSE's Statutory Planning database extracted data, sourced via

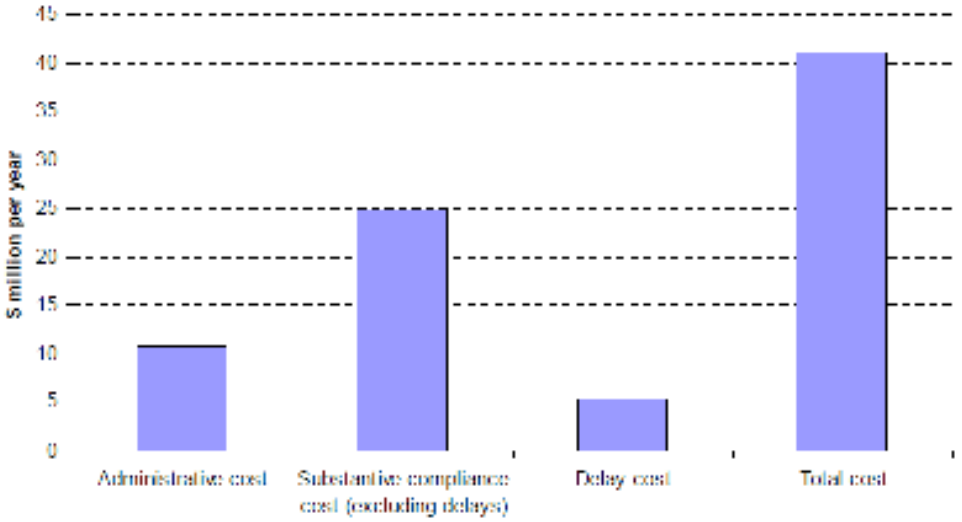
FoI). Therefore it may result in more than 2250 permit applicants not being required to 'avoid and minimise' but to move directly to offsetting.

Administrative costs of Native Vegetation Permits – is it really worth it?

According to the VCEC estimates of native vegetation regulation, the total estimated cost to Victorian business of meeting the native vegetation regulations was about $41 million per year. The main contributors to the estimated total are substantive compliance costs (excluding delays) (61 per cent), followed by administrative costs (26 per cent). The main driver of substantive compliance costs (excluding delays) relates to the purchase (or maintenance) of native vegetation offsets, which are estimated to cost $22.8 million per year.

The single largest contributor to administrative costs relates to the application for a permit, which is estimated to cost business $10.4 million per year. The key contributors (by area of activity and type of delay cost) to the total estimated cost are shown in figure 4.15. (VCEC 2009 page 86)

Figure 4.14 **Native vegetation regulations – regulatory costs**



Source: ACC (2009, p. 20) and incorporates additional information received by the Commission in response to the draft report.

It is not clear from the consultation paper if there are any proposed changes to the proposed "substantive compliance costs" from native vegetation. The main focus appears to be reducing the 'administrative costs" of $10.4 million per year.

An additional report appears to be the basis of many of the 'streamlining' proposals - the report Regulatory Change Measurement: Measuring the simplification of guidance for assessing native vegetation permits, December 2011. Regulatory Impact Solutions Pty Ltd for DSE.

The report explains in more detail the basis on the new assessment pathways resulting in a Low Risk; Moderate Risk; and High Risk assessment process plus the updating of improved guidance materials, technical information and tools for local councils for assessment of non-referred planning permit applications to clear native vegetation.

The outcome of this is explained as follows:

"The new assessment methods and updated technical information available on the website following the review and the training program for assessment staff (including for consultants) leads to some applicants being required to provide less information to government, particularly for 'low risk' assessments (reducing circumstances where a consultant report is needed)"

The report reviews the cost savings and describes the savings as follows:

"The reform delivers reductions in the average cost to complete a permit application for those applications currently referred to DSE. It is anticipated that the reform will also reduce the number of non-referred applications for which some councils require consultant reports. The implementation of a more graded system of assessment for native vegetation will reduce costs and/or timeframes for developing and assessing permit applications. Low-risk referred applications may be determined more quickly."

The consultation paper is very vague on the specific number of applications which will be reduced; however, the regulatory change report is more explicit. The modelling in the report highlights that the number of applications requiring consultants' reports being assessed by Councils will reduce gradually reduce over three years from assessing 1879 applications for clearing to 282 applications statewide, or 15% of current applications. The estimated savings from simplification for applicants for native vegetation permits assessed by Councils are estimated at $2,100,082 per annum. (see Appendix 6)

DSE has advised that 10 per cent of applications will require consultant reports because of certain characteristics of a small proportion of applications. Instead of requiring consultants' reports for assessing 470 applications, under the new rules DSE will assess just 47 application per year. The savings to applicants for a native vegetation permits assessed by DSE is estimated at $845,640 per annum (See table 7 below).

"*The ACG depicted its cost analysis as "costs to business" of the administrative, substantive compliance and delay costs to business of the native vegetation aspects of the Planning and Environment Act 1987 (ACG p19). The point cost saving to business applicants for native vegetation planning permits is estimated at $2,945,722. Given the adoption of the ACG confidence intervals of +/-25 per cent this translates to an estimated cost saving of between $2,209,292 (lower bound) and $3,682,152 (upper bound)".*

Background documents for the review show that the current cost to the Victoria community of the administration of native vegetation permits system is miniscule - around $3.7 million per annum state-wide, or if averaged across the population around 66 cents per year per person, or around 1 cent per week per Victorian resident.

Total administrative savings are estimated at between $2.2 and $3.6 million per annum with total cost per annum, reducing from $3.7 million per year to under $1 million ($812,678).

This is a small cost saving in dollar terms, but is it really worth the increased risk to allow increased and easier clearing of vegetation which provides many, though largely ignored, ecosystem services to the community?

Table 7: Estimated Annual Savings for a Permit Application following Simplification

Total Costs of an Application for Permit	Councils $	DSE $	Cost at $2,000 per application $
A Before simplification (Base Case) Annual Costs	2,818,800	939,600	3,758,400
B After simplification Estimated Annual Costs	718,718	93,960	812,678
A - B Total Annual Savings	2,100,082	845,640	2,945,722

It is reckless not to address the issues associated with 'low impact' clearing

The Government should not be writing off the opportunity to address the high numbers of clearing applications. By simply allowing 'the majority' of applications the consultation paper does not address the opportunities that exist for reducing the number of applications that involve smaller amounts of clearing (referred to as low-impact clearing).

There is a myriad of scenarios that contribute to these typically smaller-sized applications, but there are many ways that they could be reduced. This could include education for real estate agents, better planning (zoning and overlays) to reduce building and/or development in unsuitable areas, and information and advice early in the development process for landholders and developers.

Furthermore, an analysis of records from DSE's Statutory Planning database (sourced via an FoI request) shows that the municipalities that provide by far the highest number of referrals to DSE are Mornington Peninsula, City of Greater Bendigo and East Gippsland. These three areas at the very least should be targeted for greater support and strategies to reduce the incidences of 'low impact' clearing.

Additionally, some of the rural councils, such as West Wimmera, are shown to have very low referral numbers. This local government area, and a number of others, would probably be expected to have a higher amount of referrals, as they are areas that are experiencing land-use change, namely grazing to cropping, often characterised by (non-exempted) native vegetation removal. This is another area where local government should receive support to provide better regulation and enforcement of the native vegetation regulations.

Without a focus on reducing the damage caused by 'low impact' applications, the reforms are proposing a reckless approach to vegetation management and essentially planning for a reduced level of staff, funding and general regulatory support. The consultation paper should address this gap.

Upfront requirement to avoid and minimise is useful and effective

To date the requirement to avoid, then minimise, has been an explicit requirement of the regulations. It has been 'up-front' and widely known. The 'up-front' nature of this requirement has proved to be a very

useful tool for native vegetation practitioners. Local government staff, ecological consultants and DSE staff have all been able to use this requirement to work with landholders and negotiate better land-use outcomes for their developments and reduce the impact of their plans. The reforms now intend to remove the requirement to 'avoid and minimise' from the front of the process and only apply it on an 'as needs' basis, depending on the level of damage that the application is proposing.

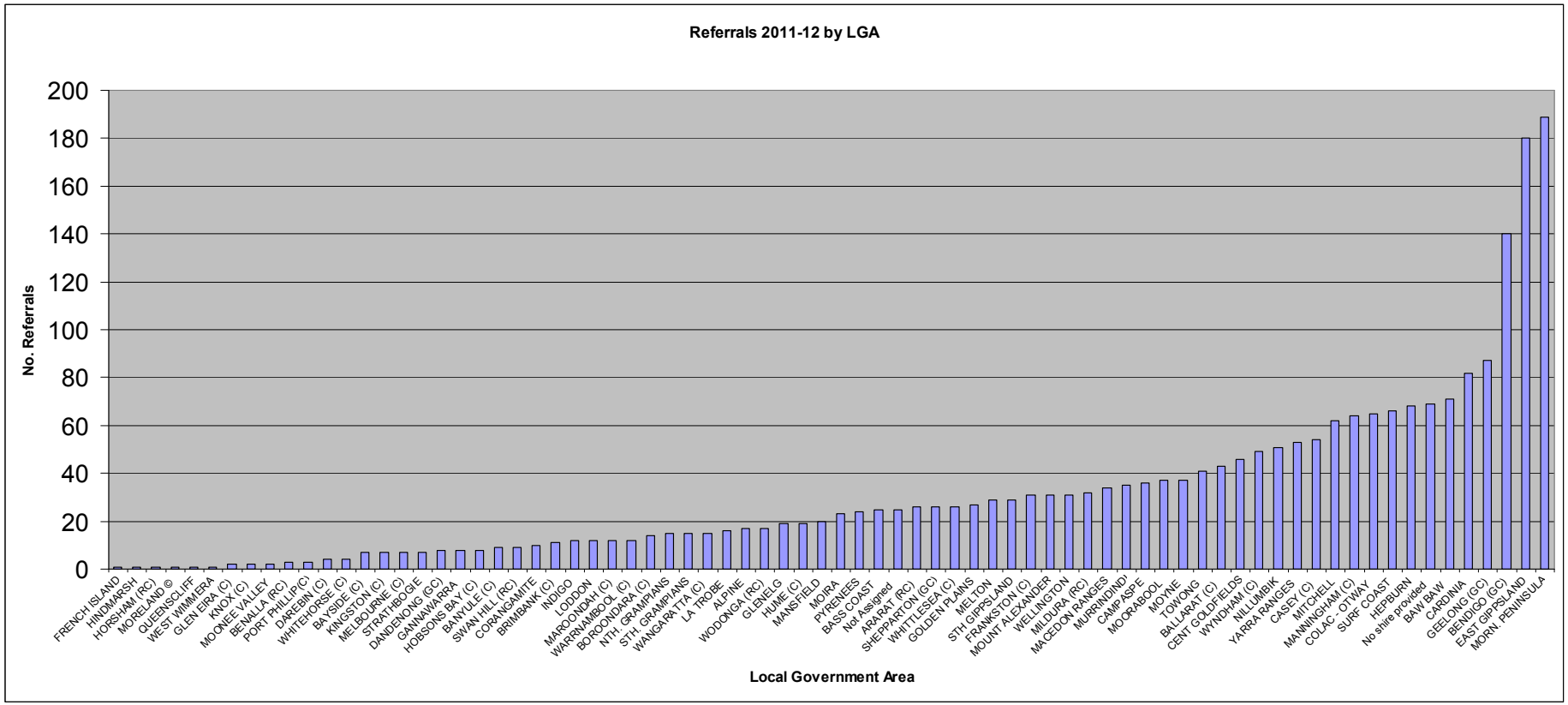
Transparency and accountability are paramount

Throughout the review of this regulatory system, there are reasons to question the transparency of the proposed process. The consultation paper appears to be moving the system to a less transparent model where it will be harder for anyone to figure out on what basis a decision has been made. Without knowing the details surrounding the quality and adequacy of data in NaturePrint, or the thresholds for decision-making using the risk-based approach, it is very difficult for DSE or any other regulatory body to justify how these decisions are being made. Without clear and transparent decision-making processes in place, this could lead to a situation where the regulators will be left unable to justify their decisions, or a case of 'because we say so'. This could lead to dissatisfaction from both applicants and the community who are interested in seeing native vegetation properly valued and adequately protected. VCEC recommended that an independent Native Vegetation Regulator be established to assist in providing independent oversight for this contentious regulatory process. If this body were to have a charter that upheld the principles outlined in the Native Vegetation Management Framework, it would reassure the public that the State's interests were being independently represented.

Summary of VNPA response:

- ***The three-step approach should be retained as an 'up front' requirement, where the emphasis on avoid and minimise should be clearly stated for all permit applications.***
- ***Moving the regulatory focus to higher impact applications only is negligent. Allowing 'the majority' of permit applications to move straight to offsetting the impact of their clearing with no on-site assessment is also negligent.***
- ***Native vegetation is a statewide asset and the government has a responsibility to manage it effectively.*** \
- ***Decisions made using the risk-based approach require a transparent, easily understood process to ensure accountability. An independent native vegetation regulator would assist in assuring both applicants and the public that the process was credible.***

Table: Summary of data provided by extract from the DSE's Statutory Planning database



3.1.4 Priority Reform 4

Priority Reform 4	Aim	Proposed Action(s)
Ensure offsets provide appropriate compensation for the environment	Provide protection for native vegetation of high biodiversity value by ensuring that offsets are appropriately tailored to mitigate impacts of removal Direct offsets towards areas that are likely to have higher strategic biodiversity value in the long term by creating incentives for landowners to offset in areas that are more strategically valuable. Reduce costs to landowners by providing simplified and more flexible offset arrangements for low-impact clearing, which makes up the majority of permit applications	4.1 Develop new risk-based offsetting rules that are organised around the strategic priority of locations in the landscape. These rules include: • requiring the offsets to closely match the type of vegetation cleared where rate or threatened species habitat is affected • for permits to remove native vegetation that have low biodiversity impacts, providing flexible offsetting options, that still deliver targeted environmental outcomes • where matching of clearing and offsets is not required, creating incentives that direct offsets to areas of high strategic biodiversity value for the state, rather than focusing on 'like for like' criteria.

VNPA Response

The proposed new system opens up the way to clear sites more readily, and as such, offsetting moves from being the last resort to an easier way of accommodating clearing. We see the following key points as being important in response:

- **Current methods of applying Gain short changes the environment**
- **We need gains on the ground, not just on paper**

The Commonwealth Government in its recently released EPBC Act environmental offsets policy (2012) outlines that '*avoidance and mitigation measures are the primary strategies for managing the potential significant impact of a proposed action. They directly reduce the scale and intensity of the potential impacts of a proposed action. Offsets do not reduce the likely impacts of a proposed action, but instead compensate for any residual significant impact'*.

Native vegetation retention is the most efficient and effective way to ensure habitat for threatened plants and animals. Landscapes composed of remnant native vegetation are found to support a higher diversity of species than those with revegetation alone (Clarke et al, 2009).

Overall, retaining remnant native vegetation is cheaper and more effective than revegetation alone. Remnant native vegetation also provides a wide range of environmental services such as clean air, fresh water, pollination, flood regulation, soil retention and carbon sequestration. These benefits are worth many millions of dollars to the community annually, and need to be thoroughly assessed both ecologically and economically before balanced decisions can be made on changes to regulations.

Numerous independent reports to government, including the Victorian Catchment Condition Report (2007), State of the Environment Report (2008) and most recently the VEAC report 2011), have reinforced the need to retain remnant native vegetation.

It is proposed that offsetting will be used to:

- Discourage clearing, where the price of achieving the offset will be the disincentive for clearing native vegetation. Although this is one mechanism for discouraging clearing, it should not be THE main method proposed. Even with the current requirement to avoid and minimise the damage to native vegetation, the offset price is not a disincentive for people who want to clear.

  This review could have been an opportunity for the government to consider more proactive approaches for reducing the amount of clearing in the state. However, the review has not proposed anything new in this area.

- Value native vegetation. The value placed on native vegetation will be determined by the price that equivalent vegetation is fetching as an offset. This proposal again appears to be simplistic in its approach, and valuing vegetation via its offset price is a backwards process that relies upon the worst scenario occurring.

The proposal is also that offsets for smaller areas of clearing be clustered together to protect and improve areas of native vegetation that are strategic for achieving positive biodiversity outcomes, for example by protecting habitat for a threatened species, or enhancing exiting habitat. This could actually be a good thing, if delivered properly. Under the current system there is little transparency in how offsets are collected and delivered. As identified in the VCEC report, DSE acts as both the policy maker, regulator (collector of money) and offset delivery agency through programs such as Bush Broker and Bush Tender. In short, the agency has a conflict of interest.

One option would be to establish an independent native vegetation regulator, but failing this, money collected for offsets must be transparently managed at arm's length for DSE. We suggest that a Victoria Offset Trust be established, with an independent board, to receive money from offsets and administer and monitor the delivery of offsets. It should not be a direct provider of offsets but rather act as an administrator using third-party providers, which could include DSE or other government agencies.

There should also be a clear statewide plan for proposed offset areas, including public land. If public land is to be used for offsets, it must be 'additional' work and must not act as a back-door subsidy for the core responsibility of the state to manage public land. We support the idea of an 'integrity framework', but would like more detail on what this looks like.

Current methods of applying 'Gain' short-changes the environment

We have reservations around how the system applies Gain. In essence the whole system is geared towards achieving only gains in quality but clearly not towards gains in extent. Furthermore, gain applied for improved security is a gain on paper only. This leads to the obvious observation that we begin with two patches of vegetation but end up with only one.

Of the four categories of gain (prior management, security, maintenance and improvement), only the last is intended to result in an increase in the habitat value of the site. The first is a reward to landowners who have kept some NV, and the next two are probability assessments, based on the assumption that the vegetation will be lost or degraded if not "protected" under the offset provisions. These have not been justified by any scientific analysis. They provide huge rewards of gain for which there is likely to be no physical evidence.

We particularly disagree with the 40% security gain DSE gives to private land it acquires as Crown conservation reserves. DSE assumes that private land protected as a State conservation reserve is four times less likely to be cleared or decline in habitat values, in comparison to land protected by a TfN conservation covenant (10% security gain). This is highly unlikely, given the State's fuel reduction policy, its creation of huge fire breaks with no ecological assessment in some regions, and its cutbacks in Parks Victoria staff and their land management resources. It would be easy to test the premise by a quick survey of a sample selection of covenants versus newly acquired State Crown reserves.

In fact, it is usual for 75% of the gain calculated in an offset management plan to result in no on-ground gain, and up to 90% in grasslands that become Crown Conservation reserves.

Furthermore, this extremely high level of security gain affords conservation reserve managers a significant 'market advantage' over private offset providers. This has played out recently with the Western Grasslands Reserves whereby, due to the level of security gain, DSE is able to offer a 'better value' offset, thus pricing private suppliers of grassland offsets out of the market. Furthermore, these offsets are also able to provide 'more gain' per hectare than another offset, resulting in less offsets required for the same amount of clearing and therefore more loss in native vegetation extent.

Finally, it is largely unknown whether maintenance and improvement gains are being achieved. It is our understanding that there has been very little follow-up on compliance for offset sites. Without this information, we should be cautious about further encouragement of the use of offsets.

We need gains on the ground, not just on paper

Over and above purely sourcing offsets via focusing on existing pieces of remnant vegetation, gains should also be sought by expanding remnants and linking them. This could actually begin to ensure that we have some gains in extent (associated with good remnant patches) and help to ensure the ongoing health of remnant vegetation. This can be achieved preferably by natural regeneration and secondly via revegetation where required. This activity is currently recognised on p. 33 of the Framework and it should be more formerly identified in Appendix 4 of the Framework.

Summary of VNPA response:

- ***Native vegetation retention is the most efficient and effective way to ensure habitat for threatened plants and animals***
- ***Offsets should remain as the last resort, not be the focus of policy that should be protecting native vegetation.***
- ***A system that is reliant on offsets and the offset market for its regulation and to achieve biodiversity outcomes requires a credible offset system. This includes ensuring that offsets meet their net gain requirements, that gains are fair, that the offset sites are not compromised, that the transactions are clearly documented and that compliance is followed up.***
- ***The gain scoring system should be altered to remove 'prior management gain', and security gain for offsets within conservation reserves should be reduced to at least 20% from 40%.***
- ***Offsets should require that remnant vegetation be buffered by regeneration and/or revegetation (to also include linking). This component should be included in the future equivalent of Appendix 4 of the NVMF (2002).***

3.2 Supporting reforms

3.2.1 Supporting Reform 1

Supporting reform 1	Proposed Improvement(s)
Define state and local government regulatory and planning roles	1.1 Work with local government to: • Ensure the interoperability of local planning policies and the Victorian Government's permitted clearing regulations, including the use of overlays • Develop guidance material defining the roles, responsibilities and accountabilities of different parts and levels of government in relation to native vegetation policies. 1.2 Continue to investigate opportunities for using strategic planning mechanisms to deliver biodiversity outcomes from native vegetation management efficiently and effectively.

VNPA Response

1.1 A commitment to work with local government by DSE is very much welcomed but should be coupled with a financial commitment to ensure that the system is actually improved. Guidance material should also be developed to assist landowners in understanding their requirements and the roles that different organisations play in the process.

1.2 In theory, strategic planning approaches make a lot of sense and could achieve very good outcomes whilst providing certainty for developers. However, this relies on a process that has integrity. In fact for these approaches to work, 'process is paramount' and needs to ensure that ecological values are upheld and not compromised by development interests. Our experience with the Melbourne Strategic Assessment and its influence over the Native Vegetation Precinct planning process, particularly within the Urban Growth Boundary (and the expanded UGB), has left us with deep reservations.

This is because the integrity of the process has been completely undermined by developer interests, resulting in rushed processes, poor data informing decisions, poor decisions being made, poor consultation processes, and ultimately poor outcomes. However, we do have two different experiences in relation to NVPP: mainly pre-Melbourne Strategic Assessment, and post-Strategic Assessment.

Earlier NVPPs

The consultant's information was at least as good as the information provided for smaller scale planning applications, and the results were better in that:

- Large and more significant areas of vegetation were protected in total, rather than some in one application and other smaller parts of that patch not being protected in subsequent applications (as often happens, depending on the VCAT panel).
- Agreement was reached to let smaller, less significant vegetation go (but offset) rather than DSE wasting its time feeling that it had to fight for this unimportant vegetation (in the consideration of the significance of other vegetation in the general area but not being part of this proposal) because it was the only vegetation in a small application. This is a common problem with ad hoc decisions.
- Provision for linkups and corridors were made - impossible in small ad-hoc decisions.

Later NVPPs were clouded by the Melbourne Strategic Assessment process, resulting in very poor outcomes for native vegetation

- Later NVPPs were based on rushed, incomplete or poor quality information - thus the decisions about significance and the need to protect were flawed. For many, full field-based assessments were not possible because of access refusals. Some assessments were partly based on fence-line and remote sensing information. Worse, the expanded UGB was assessed using mainly remote sensing and reconnaissance-level field checking. This information has led to binding strategic decisions which later detailed field surveys have shown to be severely flawed. Areas of low value were protected, and many of high value were slated for clearing.
- The manager of the process (the Growth Areas Authority) was not independent and did not seek a balanced outcome as envisioned in the process. A flaw in the process is that the manager of the process could and did ignore the objectives of c52.17 and the NVPP guidelines developed by DSE, and used the process to declare all vegetation as 'able to be removed' in some NVPPs where undoubtedly, individual applicants would probably had trouble getting their proposals though VCAT. This came about because an agency whose main focus is achieving government-set settlement densities is also given the role of independent arbiter. The arbiter almost invariably goes in favour of the development option when the environmental values and desired development outcome are both highly significant.
- Mistakes in setting the rules. If the strategic process does not lock in a high standard of principles and procedures that would be required for an ad hoc decision, the outcome is likely to be lower than a series of ad hoc decisions. This is the case when the Commonwealth agreed that a grassland less than 150 ha does not need to be protected under the EPBC Act - an appalling decision. This standard, although not written anywhere in State legislation or regulation, is taken as the standard for NVPPs in the urban area.

We have the following examples of good NVPPs and a poor NVPP:

Good NVPPs:

Folkstone Industrial NVPP in Hume north of Broadmeadows - 30+ ha of very good grassland and grassy woodland on more than one title added to the adjacent PV park

Dandenong South Industrial NVPP Dandenong - Groups of LOTs saved and isolated ones removed except for the most significant and VLOTs which were protected in 1 ha reserves (all this across multiple titles)

Bad NVPPs:

Wyndham C98 Robinson Road - 12 ha of 0.23-0.55 score Kangaroo Grass Stony Rise determined by Council and then Panel as vegetation to be removed and offset. Owner had illegally sprayed and rock-pulled the site prior to the panel hearing but was rewarded.

Summary of VNPA response:

- ***We support DSE working with local government on the issues mentioned above, as long as this is coupled with resources to implement any changes and also to make up for the chronic underfunding that has characterised this area of the system.***
- ***Strategic planning mechanisms can be very good but only if they are enacted with integrity and, in this case if they uphold the objectives of the NVMF.***
- ***Strategic processes also need to be informed by adequate on-site assessment and be flexible enough to account for changes in data, species or community listing status and temporal changes that affect ecosystems, plants and animals (eg. drought, flooding, fire).***
- ***Strategic processes should be overseen by a body that is independent of government and which has as its goal to ensure the integrity of the process from an ecological perspective.***

3.2.2 Supporting Reform 2

Supporting reform 2	Proposed Improvement(s)
Better regulatory performance	2.1 Improve public reporting of native vegetation removal and offsetting, and improve and broaden performance indicators. 2.2 Enhance the use and useability of data systems, standard forms and guidance material. 2.3 Develop and implement more comprehensive internal quality assurance processes.

VNPA Response

All of the potential improvements proposed within this supporting reform are very much welcomed.

In regard to proposed improvement 2.1 future reports should be at least bi-annual and include:

- The area and Habitat Hectares cleared per year under permit system (all permits, not just DSE);
- Information regarding how the system has or has not achieved improvement in factors that are important for threatened species persistence;
- General location, condition, area and other habitat attributes for offsets that have been sourced to compensate for clearing;
- Trend information for where the most vegetation loss is occurring and why; and
- A compliance report detailing how existing offsets are improving in quality and the identification of any issues associated with these;
- Details of the average wait time for permit processing and for sourcing offsets, as well as a summary of any relevant proposals from the 'continuous improvement program'.

We also propose that all technical native vegetation guidance material and standard forms are consolidated in one document designed for Native Vegetation practitioners. Furthermore, there should be recognition in this documentation that these people are experts (or should be) and on this basis, the documents can be technical, without the need to try and accommodate the 'lay person'.

Separate information should be developed for 'non native vegetation practitioners' to better help them understand the system. In particular, landowners and developers should be targeted via early and effective communication. In addition to good quality communication material, there should be a mechanism developed that allows for early indication to landowners (i.e. before they decide to purchase a piece of land) of their native vegetation requirements.

An internal quality assurance process is imperative for good performance of any organisation performing a function for the public good. However, we would again recommend that oversight of this process should be undertaken by an independent Native Vegetation Regulator.

Summary of VNPA response:

- ***Bi-annual reports that include but are not limited to the abovementioned factors should be made publicly available.***
- ***Two types of guidance material should be developed: 1. Technical information and guidance notes specifically for native vegetation practitioners; 2. Guidance material tailored for landowners and the public.***
- ***An independent Native Vegetation Regulator would be appropriate for approving an internal audit process.***

3.2.3 Supporting Reform 3

Supporting reform 3	Proposed Improvement(s)
Improve offset market functionality	3.1 Work with local governments to develop over-the-counter offset provision and expand the kinds of offsets available through these mechanisms. 3.2 Improve participation and increase efficiency in the offset market by: • reducing transaction costs • increasing information available • improving visibility for buyers and sellers in the offset market. 3.3 Identify scenarios where it is beneficial for government to play a facilitator role in the offset market 3.4 Investigate the development of an integrity framework to guide offsetting on public land

VNPA Response

In response to each of the Proposed Improvements outlined above there needs to be clear governance procedure surrounding this process. Both DSE and local government are already coordinating offset sites on their own land. As these organisations are both regulator and offset provider, their role as regulator is compromised as there is then opportunity for skewed judgements based on the fact that they are also an offset provider.

These dual roles are inappropriate, and the additional potential of government to facilitate the offset market is equally inappropriate under this scenario. Again, the proposed role of an independent Native Vegetation Regulator would address these very obvious 'conflicts of interest'.

Should the proposals under proposed improvement 3.2 be realised it would theoretically be an improvement.

Summary of VNPA response:

- ***The proposed role of an independent Native Vegetation Regulator would address current 'conflicts of interest' within the department as a both a regulator and a service provider.***

3.2.4 Supporting Reform 4

Supporting reform 4	**Proposed Improvement(s)**
New approaches to compliance and enforcement	4.1 Work with local governments to develop a cost-benefit based compliance and enforcement strategy that ensures the obligations of the permitted clearing regulations are being met.

VNPA Response

Working with local government is a good proposal, as is the development of a compliance and enforcement strategy. However, we should be cautious about the proposal for applying a cost-benefit model to compliance and enforcement. We understand that at present there is very little compliance and enforcement activity undertaken at all, due to funding and resourcing constraints in local government and DSE also.

There are now many registered offset sites that should be improving in quality, and in order to be accountable they require compliance visits.

It is expected that there will be some level of cost-benefit analysis applied to such a system but to have it stated as a key feature of a compliance and enforcement strategy is concerning. Without knowing how the benefits in particular will be measured, a strategy of this level of importance could be compromised. A document alone will not ensure that the obligations of the permitted clearing regulations are being met; there needs to be a dedicated compliance and enforcement fund to ensure that compliance and enforcement are undertaken.

Summary of VNPA response:

- ***A compliance and enforcement strategy should have adequate and dedicated funding to ensure that the obligations of the permitted clearing regulations are being met.***
- ***This would best be delivered by developing and implementing a strategy that focuses on native vegetation and biodiversity outcomes rather than just an economic 'cost-benefit analysis'.***

3.2.5 Supporting Reform 5

Supporting reform 5	Proposed Improvement(s)
Continuous improvement plan	5.1 Adopt a process of continuous improvement for the permitted clearing regulations, including the following actions: • work with the Commonwealth Government to ensure the interoperability of state and Commonwealth regulation and to reduce regulatory burdens • periodically assess exemptions • identify areas for investigation to improve the quality and comprehensiveness of the data that underpins the models and update models accordingly • refine gain scoring as new information on the impact of management activities becomes available • assess system changes after implementation and address any emerging issues

VNPA Response

Proposed improvement 5.1 dot point 1 appears to be actually outlining some of the mechanisms that will move Victoria's native vegetation regulation system towards a system that is more in line with the Commonwealth Government's Strategic Assessment process. However, it is inappropriate that these mechanisms are masquerading as a 'continuous improvement plan' when they are essentially an indication that the Government intends to move us to an even more 'hands off process', and they are taking the place of what should be in a real continuous improvement plan.

Review the quality and extent of vegetation;

Review whether there has been an improvement in habitat

The areas identified for focus are not complete and are not actually focusing on ecological outcomes at all. They are certainly not focusing on seeking to measure whether the policy is achieving its objective of no net loss in the contribution made by native vegetation to Victoria's biodiversity.

The purpose of some of the proposed improvements is not clear, nor do they seem sufficient. It appears that many of the areas proposed for review by the improvement plan lack data to inform them.

For example:

- For what purpose will exemptions be measured?
- What data will inform them?
- Without any data existing on the impact of current exemptions, will the exemptions review simply be politically driven?

In regard to gain scoring, a data collection exercise should have informed this review, i.e. offset sites should have been visited to determine how they were being managed and whether the gain scoring was reflecting practice. If this is only a supporting reform, with no commitment to its

implementation, how is the government ever to show that management and improvement gains are being achieved or adjust them accordingly? Again, without data these decisions are likely to be purely political.

Summary of VNPA Response

- ***A continuous improvement plan should not be solely focused on reducing regulatory burden. This is a policy that should be about protecting the environment, not just making it easier for development.***
- ***An independent review of this policy should be undertaken and focus on its ecological integrity.***

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Appendix 1

Excerpt from report: Conservation Volunteering Campaign Development, Qualitative Research Report, September 2010, Motive Market Research.

RESEARCH METHOD

The research method employed was qualitative and involved the conduct of six focus group discussions, two in each of the three project areas. The structure of the two groups was identical in each of the three areas. The three areas in which the project is running and in which the group discussions were conducted are:

- Western Melbourne Catchment Network (focused on the Werribee River Catchment area).

- Project Platypus Landcare Network area (focused on the Upper Wimmera Catchment area)

- Connecting Country (focused on the Mt Alexander Shire area).

The group discussions were held in Werribee, Stawell and Castlemaine respectively with participants drawn from both the towns and the surrounding areas. Throughout this report, when a town is mentioned it should be borne in mind that the participants included people from the surrounding areas as well as the town itself.

In each area participants were recruited to attend the focus groups. All groups comprised participants who are attitudinally 'Light Greens' using a recruiting questionnaire (see Appendix A). Apart from the criterion of being 'Light Greens' the participants were separated by age as follows:

Group 1: 25 – 40 year olds, males and females

Group 2: 50 -60 year olds, males and females.

All participants were screened to ensure that they were not currently a member of volunteer conservation groups such as Landcare, local 'Friends' groups, field naturalist groups or similar, or of lobbying groups such as the Australian Conservation Foundation, Wilderness Society, Environment Victoria, etc.

The discussion sessions were conducted between August 16 and August 18, 2010.

During the sessions participants were shown a series of boards containing messages encouraging conservation volunteering and their responses were sought.

Qualitative constraint

In reading this report it must be borne in mind that this research is qualitative in nature and the findings must be interpreted accordingly. The approach relied upon a relatively free conversation between the participants and the researcher with prompting used to steer the conversation and introduce new topics. This report is based on the observation and interpretation of the researcher. The sample is small and caution is needed in reading the findings.

Results: Biodiversity

Amongst participants in Werribee and Stawell **biodiversity** remains a largely unknown word in our language. Some make various guesses about what the word may mean while others confuse biodiversity with such things as biofuels.

"Bio means two and then there's diverse, so it could be like two things living together." (Werribee)

"Investment in generating electricity, fuel for cars that are less polluting." (Werribee)

"Recycling and packaging" (Stawell)

"Breaking down natural products, like in desalination and recycling."(Stawell)

A few have a vague idea that it refers to the way a system operates and how one element in the system will affect another.

"The effects on the Murray will have negative effects on the land." (Stawell)

"The dinosaurs die and other species come in." (Stawell).

Only one individual in the four focus groups in Werribee and Stawell had a clear understanding of the meaning of the term biodiversity. In contrast, participants in both Castlemaine groups had at least some understanding of the term biodiversity. Many had a clear understanding and were acutely aware of biodiversity loss.

"Living things in vast array."

"How one thing in nature affects another; the opposite of a monoculture."

"The Western District was once a vast forest, the Australian Felix, look at it now."

Appendix 2 – VNPA suggested amendment of Table 5, Appendix 3 within the NVMF (DNRE, 2002) Determining Conservation Significance

Table 5: Determining conservation significance

CONSERVATION SIGNIFICANCE	BIODIVERSITY ATTRIBUTES				
	(1) VEGETATION TYPES		OR (2) NATUREPRINT CLASS	OR (3) SPECIES (rare or threatened)	OR (4) OTHER ATTRIBUTES
	Conservation Status	Habitat Score$_2$			
VERY HIGH	Endangered Vulnerable Rare	0.4 - 1 0.5 - 1 0.6 - 1	▪ Dark red and light red classes	▪ best 50% of habitat for each threatened species in a Victorian bioregion	▪ sites with unique National Estate values ▪ sites identified as being of national significance as a relict, endemic, edge of range or other non-species values ▪ Ramsar Sites ▪ East Asian-Australasian Shorebird Site Network sites ▪ Other wetlands of international significance for migratory waterbirds ▪ areas identified as providing refuges (e.g. during drought) for threatened species
HIGH	Endangered Vulnerable Rare Depleted	< 0.4 0.3 - 0.5 0.3 < 0.6 0.6 - 1	▪ Dark green and light green classes	▪ the remaining 50% of habitat for threatened species in a Victorian bioregion ▪ best 50% of habitat for rare species$_2$ in a Victorian bioregion	▪ sites with rare National Estate values ▪ sites identified as being of state significance for relictual, endemic, edge of range or other non-species values ▪ Wetlands listed in 'A Directory of Important Wetlands in Australia' ▪ Wetlands of national significance for migratory waterbirds ▪ areas identified as providing refuges (e.g. during drought) for rare species ▪ priority areas for the re-establishment of habitat for a threatened species (eg. As determined in a Biodiversity Action Plan)

Table 5 (continued): Determining conservation significance (continued)

CONSERVATION SIGNIFICANCE (Continued)	BIODIVERSITY ATTRIBUTES				
	(A) VEGETATION TYPES		OR (B) NATUREPRINT CLASS	OR (C) SPECIES (rare or threatened)	OR (D) OTHER ATTRIBUTES
	Conservation Status	Habitat Score$_2$			
MEDIUM	Vulnerable Rare Depleted Least Concern	< 0.3 < 0.3 0.3 < 0.6 0.6 - 1	▪ Dark purple and light purple classes	▪ the remaining 50% of habitat for rare species in a Victorian bioregion ▪ best 50% of habitat for regionally significant species	▪ sites with uncommon National Estate values ▪ sites identified as being of regional significance for edge of range or other non-species values ▪ Wetlands of bioregional significance (based on application of National Land and Water Resources Audit criteria).
LOW	Depleted Least Concern	< 0.3 < 0.6	Yellow and white classes		

Notes

1. Whichever column (A, B, C, or D) gives the highest conservation significance represents the conservation significance of the native vegetation
2. Large and medium old trees can be given a conservation significance using the all the columns of the table but assuming a habitat score of "0"
3. The definition and rationale for applying a Conservation Status is described in Appendix 2
4. The conservation status of species determined with reference to NRE Victorian Rare or Threatened Flora and Fauna lists, as supplemented by the relevant Native Vegetation Plan. The relative quality and suitability of habitat for threatened species depends on particular requirements and therefore must be estimated on a species-by-species and location-by-location basis by the relevant planning authority using the best available information.

Appendix 3 – Review of Native Vegetation $ Values

Native Vegetation Adds Up

A study as part of the activities of the working group producing the report *Sustaining our Natural Systems and Biodiversity* for the Prime Minister's Science, Engineering and Innovation Council in 2002 summarised the following values for native vegetation from an Australia-wide perspective.

Collateral benefit	**Estimate of value (2002)**
Dryland salinity	$110 per ha pa
Soil erosion	$10 per ha pa
Carbon sink	$1,400 per ha bush
Clean water	$230m pa
River salinity	$46m pa
Water regulation	Road damage - $45m pa
Pollination	$1b pa
Tourism	$6.6b pa total
River recreation	$259,200 per 10 km river
Landscape aesthetics	$226,800 per 10,000 ha

Source: Possingham et. al. 2002

The economic values associated with native vegetation comprise both use and non-use values. Use values involve people physically using or ?????

Without native vegetation, farmland degrades

The maintenance of native vegetation and the prevention of land degradation, both on-farm and off-farm, are interlinked. For example the presence of native vegetation upslope was shown to result in less run-off and erosion on farmland (Young 1997). A study by Walpole, Miles et al. (1998) derived a $9.54/ha benefit attributable to land degradation control by remnant native vegetation.

As well as affecting the productivity of farmland, the clearing of native vegetation can result in adverse impacts on agricultural production on other properties in the region. Howard (1996) identified that salinity, waterlogging, water erosion and wind erosion are all exacerbated by the lack of native vegetation in the landscape.

Furthermore:

- More than 2.5 million hectares of Australia are affected by dryland salinity at a cost of more than A$270 million a year in environmental degradation, degraded water supplies, lost agricultural production and damage to infrastructure such as roads, buildings and recreational facilities (Campbell 1999).
- Land degradation costs $1.15 billion annually in lost production in Australia, that is, around 5% of the local value of agricultural production of $23.4 billion in 1994-95 (DEST 1993).
- If all land degradation were eliminated, the value of agricultural output would rise by $7.3M pa per LGA or $12 per ha pa (Sinden & Yapp 1992).

Native vegetation helps to provide clean and safe water

The annual costs of water turbidity for Australia are estimated at $28m, costs of eutrophication as $200m and costs of sedimentation $4m. Together these make a total of about $230m pa (Land and Water Resources Audit, unpublished data).

The cost of current levels of salinity in the River Murray system has been estimated as $46m per year (Murray Darling Basin Commission 1999). This includes costs to irrigated agriculture, urban and industrial users, and to the environment.

Studies by SKM (200X) showed that streamflow increased by 33 mm for each 10% of forest area cleared in the Maroondah, Stewarts Creek and Reefton catchments in Victoria, thereby increasing the potential for increased nutrients and turbidity in waterways.

Native vegetatation helps in pollution reduction

Native vegetation and ecological processes play an important role in the breakdown and absorption of many pollutants created by human activity, including sewage and carbon dioxide. Many species ranging from bacteria to higher life forms are involved in these breakdown and assimilative processes (DEST 1993).

Climatic stability

Vegetation is essential for the maintenance of oxygen and carbon dioxide levels in the atmosphere and influences climate at the global, regional and local levels (DEST 1993). The relationship between climate change, greenhouse effect and native vegetation is developed in Background Paper 7 The Greenhouse Effect, Climate Change and Native Vegetation (Rawson & Wilson 2000) .

Native vegetation stores carbon dioxide. When it is cleared 'much of the stored carbon dioxide is released into the atmosphere, contributing to greenhouse gas atmospheric warming (Brown et. al. 1993)'. Clearing an average hectare of vegetated land contributes 179 tonnes of carbon dioxide to the atmosphere and policies to reduce clearing of native vegetation may be a significantly cheaper option for meeting Australia's current greenhouse gas reduction obligations, and most of the recently proposed international targets, than reducing fossil fuel use (Ryan 1997).

Native vegetation may also have a local impact on climate. Evidence suggests that native vegetation may help maintain rainfall locally by recycling water vapour back into the atmosphere. Native vegetation may also generate atmospheric turbulence through the effect of the vegetation canopy. At a smaller scale, vegetation has a moderating influence on adjoining agricultural production and can create specific microclimates that are relied on by various organisms (DEST 1993).

Farmers benefit

In a survey of landholders in northeast Victoria 100 participants were asked to identify and, where possible, quantify benefits they considered that they receive from their remnant native vegetation. The table below indicates how landholders believe that they benefit from their remnant native vegetation.

Benefit	**NE Victoria (% of Participants*)**
Aesthetics	89
Timber for firewood and fencing	86
Increased agricultural production	77
Recreation	73
Habitat for animals which help control pests	69
Increased stock production	62
Cleaner water	60
Nutrient cycling/soil formation	45
Other (wildlife habitat, windbreak, contribution to quality of life, effect of RNV on	37

climate, privacy, barrier to noise, maintaining ecological balance, education value, nature conservation value, provision of sawlogs and as a seed source)	
Increased crop production	0
No benefits	0

* More than one alternative could be selected by each participant Source: Middleton et. al. 1998

Farms benefit

- Trees can augment adjoining crop production by sheltering crops from wind, thereby reducing moisture loss. It has been estimated that the protection benefits of native vegetation may extend for at least 15 times the height of the tree canopy (Miles et. al. 1998).

- An increase in wheat and crop yields in sheltered zones estimated between 22% and 47% in a study in Rutherglen, Victoria.

- As with adjoining crops, trees and tall shrubs can also augment adjoining pasture growth through shading, protection from wind and decreased moisture loss4. A 20-30% higher yield was obtained in protected than in unprotected areas of a farm, with annual benefits of $38 to $66 per hectare.

- Availability of shelter resulted in a 50% reduction in lambing losses (average losses without shelter were 36% for twins and 16% for single births). When shelter was provided, the figures dropped to 18% for twins and 8% for single lambs.

- On a day of 27 degrees C, it was found that unsheltered cows have 26% less dairy milk production than unshaded [shaded??] stock (Miles et. al. 1998).

Voters value native vegetation

The community's willingness to pay for improvements in non-market aspects of biodiversity has been estimated by choice modelling as:

- 8c/household for swimming and fishing for every 10 kilometres of degraded waterway that is restored ($259,200/10 km for all Australian households willing to pay), and

- 7c/household for landscape aesthetics for every 10,000 ha of farmland rehabilitated ($226,800 for all households, equivalent to $23 per ha). (National Land and Water Resources Audit, unpublished data.)

A study by Lockwood and Carbury (2000) which resulted in values for the mean, once-off willingness to pay (WTP) estimates per household to preserve remnant native vegetation on private property northeast Victoria is provided below.

	NE Victorian WTP ($)
Contingent Valuation Model 1	$98.40
Contingent Valuation Model 2	$77.35
Choice Modelling Model 1	$93.63
Choice Modelling Model 2	$43.15

Vegetation pays

A benefit-cost analysis of the conservation of remnant native vegetation on private property in northeast Victoria indicated that under most conditions, there was a net economic benefit in conserving remnant native vegetation. For example, given a five-year time horizon and a discount rate of 7%, governments could spend up to $29.8 million in northeast Victoria and still achieve a net economic benefit, provided that conservation outcomes were achieved (Miles et. al. 1998).

This result was achieved without taking into account that preservation values (indirect use values and non-use values of native vegetation) may rise through time at a rate that is greater than the rate of change of the opportunity costs (Gillespie R. 2000).

Furthermore, an increase in the preservation values of native vegetation over time may arise for a number of reasons, as follows.

• Environmental goods tend to be 'public goods' and hence the total benefit enjoyed by the population is the sum of benefits to individuals. Increases in population therefore result in an increase in the total benefit to the community. Agricultural and other market products are predominantly private goods. They can be enjoyed only by their immediate users. Population increases may increase the demand for the products. This may increase the consumer surplus generated by production but associated price rises may decrease this measure of benefit .

• Environmental goods generally have few substitutes. Over time, with the increasing scarcity of environmental goods, substitution possibilities will become more limited. Consequently, unit values of these goods will, as a result, increase over time. Agricultural and other products, however, tend to be more easily substituted, including the substitution of domestic supplies with overseas supplies. Unit value rises in agricultural and other products are thus far less likely.

• In recent years there has been a shift of community preferences toward environmental goods.

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Appendix 4. Joint Statement to State Government from 36 Environment Groups on Native Vegetation Regulation

JOINT STATEMENT

3 April 2012

Save Our Precious Wildlife Habitats!

A joint statement on Victorian Native Vegetation Rules

Strong controls on the clearing of native vegetation are critical to the health of our natural heritage, ecosystems and the survival of threatened species. They also bring many other benefits to the community.

As community-based groups representing thousands of Victorians, we are deeply concerned about the State Government's proposed review of the Native Vegetation Management Framework.

We want to see it strengthened, not weakened, leading to a 'net gain' in native habitat.

Numerous independent scientific reports to government, including the Victorian Catchment Condition Report (2007)[1], Victorian State of the Environment Report (2008)[2], and most recently the Victorian Environmental Assessment Council's Native Vegetation Investigation (2011)[3] have all identified loss of native vegetation as the key contributing factor for ongoing decline in the health of our natural environment. They have all reinforced the need to retain, protect and enhance native vegetation.

In spite of all the existing good policies and hard work by the community environment groups, Landcare and landholders, the health of the natural environment continues to decline in Victoria. We are now widely recognised as the most ecologically stressed state in Australia.[4]

The statistics are stark:

- More than half of Victoria's original native bushland has been cleared, including 80% of the native vegetation originally found on private land.
- A third of Victoria's major streams and stream bank bushlands are in poor or very poor condition.
- Two-thirds of our wetlands have been either lost or degraded, and nearly half our major estuaries have been significantly modified.
- The highest number of threatened species in any one region in Australia occurs in northwest Victoria.[5]
- 44% of Victoria's native plants and 30% of our native animals are extinct or threatened with extinction.[6]
- Approximately 1600ha of woody vegetation and 5000ha of rare grassy native vegetation continue to be lost annually.[7]

Overall, retaining remnant native vegetation is cheaper and more effective than revegetation alone. Native vegetation also provides a wide range of environmental services such as clean air, fresh water, pollination, flood regulation, soil retention and carbon sequestration. These benefits are worth many millions of dollars to the community annually, and need to be thoroughly assessed both ecologically and economically before informed decisions can be made on changes to regulation.

In Victoria, vegetation clearing on private land is largely controlled through Native Vegetation regulations in the Planning and Environment Act (1987) and the Native Vegetation Management Framework. This critical regulatory framework complements and supports the hard work of landholders and community groups restoring and nurturing native vegetation on their own patch.

Many of the signatory groups are involved in restoration and protection activities to address clearing practices of the past, and we do not want the regulatory "rug" pulled from under us.

Australian Plants Society Victoria Inc.

Bendigo and District Environment Council

Riddells Creek Landcare

wmcn

Johns Hill

Geelong Environment Council

Australian Wildlife Protection Council

VICTORIAN NATIONAL PARKS ASSOCIATION
Be part of nature

environment victoria

birdlife AUSTRALIA

THE WILDERNESS SOCIETY

Environment Defenders Office

National Trust

Friends of the Earth

BEAM

WCS WARRINGAL CONSERVATION SOCIETY

JOINT STATEMENT

3 April 2012

To this end we support the following four key elements in any revised framework:

1) Net gain policy – that there should be "a reversal, across the entire landscape, of the long-term decline in the extent and quality of native vegetation, leading to a net gain".

2) A three-step approach to assessing native vegetation – that is, "avoid clearing, minimise clearing, offset clearing", with an emphasis on avoiding.

3) Like for like – offsets are to be as close as possible in vegetation type to the lost vegetation, or an even more threatened vegetation type, and should only be an option of last resort.

4) A robust, sophisticated and transparent vegetation quality assessment methodology undertaken by a qualified assessor to a high standard.

We request that any review of the Native Vegetation Management Framework should:

1. Be undertaken in an open and transparent manner and involve extensive consultation with all sections of the community, including conservation and Landcare groups.
2. Be informed by the best available ecological science and policy approaches, including an assessment of the economic value of vegetation and the services it provides, not just the apparent regulatory cost.
3. Aim to improve the key elements of the existing framework, including net gain, the three-step approach (especially 'avoid'), like for like for offsets, and robust assessment methods that must be underpinned by strengthened monitoring and research to support adaptive management towards net gain.
4. Improve the monitoring, transparency and accounting of vegetation offsets.
5. Include no further exemptions for clearing.
6. Contain stronger incentives and education for landholders.
7. Be informed by an overarching state policy for the recovery of the health of our natural environment.
8. Be supported by a commitment from government for better funding and support for improved implementation.

References

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Phillip Island Conservation Society

Croydon Conservation Society

Environment East Gippsland

Friends of Inverleigh Fauna and Flora Reserve

Friends of Warrandyte State Park

Appendix 5 – Example of a site where native vegetation regulation is presided over by DPI

Appendix 6 – Tables from Allan Consulting Report

Table 5: Administrative costs of an Application for Permit following simplification – Council Applications

Type of Cost Simple Application for Permit	Proportion of Councils requiring assessments % (1)	Population (approx)	Cost at $2,000 per application (2) $
Before simplification (Base Case) Annual Costs	**100.0**	**1,879** **1,409 to Councils (75.0% of Total)**	**3,758,400** **(2,818,800 Councils)**
Year 1	75.0	1,409	2,113,875
Year 2	50.0	1,409	1,409,250
Year 3	25.0	1,409	704,625
Year 4	15.0	1,409	422,775
Year 5	15.0	1,409	422,775
Year 6	15.0	1,409	422,775
Year 7	15.0	1,409	422,775
Year 8	15.0	1,409	422,775
Year 9	15.0	1,409	422,775
Year 10	15.0	1,409	422,775
Total Annual costs 10 year			**7,187,175**
Total Annualised costs			**718,718**

(1) It is assumed that some Councils will continue to require applicants to undertake habitat hectare assessments and submit consultant reports. Therefore it is assumed the proportion of applicants requiring consultant reports for Low Risk applications gradually reduces from 100 percent prior to the introduction of the DSE initiative to 15 percent in Year 4 and assumed to be steady at that rate thereafter.

(2) It is assumed that removing the requirement for a consultant's report results in a saving of $2,000 for the permit applicant. It is also assumed that the savings are to apply irrespective of whether Responsible Authority (Councils) or the Referral Authority (DSE) assesses the Permit Application, given the same Risk Pathway methodology applies.

Table 6: Administrative costs of an Application for Permit following simplification – DSE Referred Applications

Type of Cost Simple Application for Permit	Proportion of DSE applications requiring assessments % (1)	Population (approx)	Cost at $2,000 per application (2) $
Before simplification (Base Case) Annual Costs	**100.0**	**1879** **470 DSE (25.0% of Total)**	**3,758,400** **(939,600 DSE)**
Year 1	10.0	470	93,960
Year 2	10.0	470	93,960
Year 3	10.0	470	93,960
Year 4	10.0	470	93,960
Year 5	10.0	470	93,960
Year 6	10.0	470	93,960
Year 7	10.0	470	93,960
Year 8	10.0	470	93,960
Year 9	10.0	470	93,960
Year 10	10.0	470	93,960
Total Annual costs 10 year			**939,600**
Total Annualised costs			**93,960**

(1) It is assumed that DSE Low Risk applications gradually reduces from 100 per cent prior to the introduction of the DSE initiative to 10 per cent from Year 1 (DSE advice).

(2) It is assumed that removing the requirement for a consultant's report results in a saving of $2,000 for the permit applicant. It is also assumed that the savings are to apply irrespective of whether Responsible Authority (Councils) or the Referral Authority (DSE) assesses the Permit Application, given the same Risk Pathway methodology applies.

Appendix 7.

Workshop notes: What should native vegetation policy look like in the future?

20th September, 2012

This workshop, run jointly by the Victorian National Parks Association (VNPA) and the Environment Defenders Office (EDO) was attended by 63 people. They comprised:

34 ecological consultants; 16 local government environment staff; 5 non-government organization staff; 4 government authority staff; 2 government agency staff; 2 individuals and one academic.

The notes provided below are provided 'as written' either by participants or by the facilitators on the day. They are intended to be utilized largely by the participants of the workshop and their colleagues for the purposes of sharing group-developed information and ideas that may be useful for writing a submission in response to the Department of Sustainability and Environment's (DSE's) recently released consultation paper *Future directions for native vegetation in Victoria. Review of Victoria's native vegetation permitted clearing regulations.*

These notes also serve as a record of some of the thoughts and ideas that a group of native vegetation practitioners have in response to reflection on their experience of using the Native Vegetation Management Framework following ten years of its implementation. They also serve as a record of how this group of native vegetation practitioners could see a very positive future for native vegetation policy in Victoria.

These notes are not endorsed by the individual participants nor the organizations that they belong to but, as agreed by the attendees on the day, the notes will be provided by the VNPA and EDO to the DSE as they are to be considered by the review, although not as an official submission to the process.

Notes:

Session 1 - Presentations:

The following presentations were provided:

Matt Ruchel, Executive Director of the Victorian National Parks Association welcomed the group and provided a brief outline VNPA's background and interest in the issue to date.

Warrick McGrath, Acting Director of Biodiversity and Ecosystem Services from the DSE presented on their newly released consultation paper titled: *Future directions for native vegetation in Victoria. Review of Victoria's native vegetation permitted clearing regulations* and responded to some questions.

Brendan Sydes CEO of the Environmental Defenders Office presented on the key findings of their recent review of the effectiveness of the Native Vegetation Framework, titled: A Framework for Action?

Snapshot perspectives from Native Vegetation Practitioners: John Kershaw from Ecology Australia and Paula Deuber from the Biodiversity Planning Network outlined the key positives and negatives of the Native Vegetation Management Framework from the

perspective of an ecological consultant and a local government environment planner respectively.

Session 2

Fundamentals and Frameworks:

During this session we explored the questions: what visions, goals/outcomes, principles and broad mechanisms are required to guide native vegetation policy in the future?

Results of Session 2 – Fundamentals and Frameworks

Vision: Victoria's biodiversity and habitats are extended and enhanced as a valued, accepted and integral part of the future development of the State.

Goals/Outcomes:

Increase the resilience of ecosystems to achieve a net gain in biodiversity.

To maintain, conserve and enhance biodiversity to preserve its intrinsic values as well as its use values (by increasing and enhancing the extent and quality of native vegetation).

Biodiversity is **strongly** valued by the community.

Improve the integration between biodiversity and urban and rural landscapes.

A more credible way of measuring losses and gains.

Biodiversity at a local level as well as at a broader strategic level is protected and enhanced in the ability to cope with environmental change.

To increase the adaptive capacity of our biodiversity.

Principles:

No loss in the extent and quality of vegetation across the State.

To give a value to native vegetation.

Operates under a State Conservation Plan.

Retain the three step approach.

Mechanisms should be leading to our goals.

Use best practice science to achieve the goals.

Consistency of assessments.

Accountability for actions.

Solid framework that sets clear 'rules' to ensure certainty.

Credibility.

Well educated community, regulatory authorities, proponents and professionals.

Making information more accessible.

Streamline all information, policy and processes.

Urban vegetation holds social value and should be valued.

Maintain all vegetation types across the State.

All vegetation considered equally valuable until 'ground truthing' determines otherwise.

Maintain/promote landscape connectivity and heterogeneity across the State.

Consideration of endangered species and their requirements.

Mechanisms:

Avoid, minimize then offset related to a 'like for like' requirement.

Security mechanism as a priority vs. management in perpetuity.

Policy integrated into Planning scheme.

Transparent, holistic process accessible by all: regulators; practitioners; public.

Document/Framework consolidation.

Centralised document.

Enforcement and compliance.

Have compliance, enforcement and monitoring.

Clear, concise assessment method that is consistently accessible, that recognizes ecological complexity (and complex nature of assessment).

Reliable data – integrated on-ground data which informs spatial data.

Meaningful consolidation of offset sites (priority sites strategic areas/values) – tenure blind.

Pragmatism vs. dogmatism.

Session 3

Making it work:

During this session we broke into small groups to work on the key themes that arose via the ideas for 'mechanisms' within the previous session combined with the information from pre-workshop survey responses. These themes and the ideas that were developed within this session could be considered as ideas for recommendations for future native vegetation policy development.

Results of Session 3 – Making it work

Theme 1. Governance and Accountability

- A planned landscape vision – with grouping at different scales, eg. Local, regional and statewide. Focus on security and active management.
- Consistency and clarity of policy between regulators (Eg. CMA, local government, DSE, Water Authorities, CFA):

  - Consistency of delivery
  - Culture
  - Corporate memory
  - Resources
- Need for a specialist court, eg. Land and environment court.
- Are there opportunities for 'third party' accreditation and/or auditing?
- Proper tracking system.
- Criteria for decision making thresholds (eg. What is referred to local government, DSE). Needs to account for:
  - Variability
  - Context
  - Ecological value

  Eg. High, Medium, Low.

  (Already developed – see DSE's new non-referred guidelines, 2011)

Theme 2. Integration and Influence of NV Policy with Planning and Other Conservation Policy:

- Who: DSE/Councils What: Conduct an audit of the impact on native vegetation of the current planning scheme exemptions. Following from this audit form recommendations. When: Now
- Who: DSE What: Continue to have a native vegetation regulator separate to the responsible authorities. When: Now How: Continue and enhance.
- Who: CMAs What: Regional Biodiversity Strategies When: After a Statewide Strategy is produced. How: With public consultation and engagement.
- Who: Victorian Government What: Overarching Biodiversity Strategy. When: ASAP How: With public consultation and engagement.

Theme 3. Monitoring, Evaluation, Compliance and Enforcement:

- Establish baseline data: what native vegetation exists, where it is, its condition and what's being removed (legally and illegally).
- Funded enforcement officers required. There should be an education component to this role. Tasks for these officers: On-site assessment of Offset Management Plans and compliance; Investigating vegetation clearance; Collecting data on their [compliance] activities; Following up permit conditions; Establishing consolidated offset sites; A proactive auditing regime.
- Data collection would be regular (annually at a minimum). It would include:
  - Do offset areas have an Offset Management Plan? Is it being implemented?

  - Data on permit conditions
  - Data on vegetation removal
  - Data on compliance
  - Data on enforcement
- [DSE to] work with MAV for an Integrated Compliance System.
- [Establish] consolidated offset sites on local and catchment level – existing and potential sites based on demand (EVC type).
- Section 52.17 requirement: Native Vegetation Credit Register Extract (to help with monitoring offsets on the local government level against objectives).
- Should there also be some type of incentives/rewards for compliance with offset management requirements? This may be dependent on the type of reward. Maybe an example could be a reduction in the costs associated with regulation?
- Develop a compliance strategy to ensure transparency around compliance for everyone.
- Give the framework 'weight' for compliance purposes via legal mechanisms (broader than the Planning Scheme).

Theme 4. Ecological Assessment Methodology (Habitat Hectare Assessment):

- Training – DSE to provide (and DSE learns from practitioners). This would include an induction to the method and then refresher courses for practitioners (every 2 years or less).
- Review methodology: review weightings of components in assessment to reveal finer scale. Peer reviewed publications. DSE, in consult. Scientific testing, repeatability.
- Definitions for Habitat Hectare: How to; Components definition; How to consider local [factors]; Temporal scale – seasonality, - long-term.
- AUDITING [of] assessments.
- Review the unintended applications of the method (those that the assessment that was not originally intended for). Who: DSE How: robust (empirical studies) When: asap
- Assessments at bioregion level? Should they stay at this level?
- Enable results of assessments to feed into spatial models.
- Review appropriateness of using only Habitat Hectare score to determine conservation significance. What about local context? Who: DSE with consultants and local governments, road-testing and trouble-shooting.
- Scrap altogether the notion/ideal that assessments can be done by a layperson. This would allow proper, accurate, scientific assessments.

Theme 5. Avoid? A system that protects the things that matter.

- State Government to provide adequate resourcing to local government to undertake strategic planning for biodiversity (updating zones, overlays, mapping and data) with 5 years.
- State Government to develop best-practice guidelines for Avoid and Minimise for different kinds of land uses and development (in conjunction with council) and incorporated into planning scheme in 2 years. These guidelines would include:
    1. Get advice EARLY in the process for the best outcome
    2. Information requirements for different kinds of developments/level of risk
    3. Vegetation quality
    4. Threatened species
    5. Landscape context eg. Connectivity
    6. …..etc.

    BASICALLY simple, practical steps for different kinds of developments to follow.
- State Government and councils to provide adequate resources (eg. Staffing) to provide good advice and assess applications (both DSE and LG staff). Ongoing timeline.

Theme 6. Clarifying Ecological Objectives and Scope

- Ensure gains are achieved **on the ground** not just on paper via expanding remnants and reconnecting (reveg, regen).
- Mechanism to ensure the strategic location of offset sites. Considering different scales:
    - Local (local values)
    - Landscape (connectivity)
    - State (Threatened species, other)

    This needs to be supported by data collection.
- Maintain the integrity of consideration of threatened species in site assessment supported by rigorous data and on-ground assessment.
- Increase consideration of ecological function (through landscape score?). In both assessing original vegetation and locating offset sites.

Theme 7. Offsets (What counts; where; market for; and strategic)

- Offsets should be the last resort. Keep Avoid, Minimise, Offset. But if clearance is permitted, offsets should be available.
- Offset market drives a feed-back loop to inform planning decisions.
- State and Federal government offsets need to work together.
- Like for like should aim to offset the impacted species. Improved data and best science needs to feed into like for like mechanisms.

- Tiered approach:
    - Small development clearance for local benefits; and
    - Large developments clearance offsets for State benefit.

      Both to enhance biodiversity assets.
- New security mechanism to protect offsets (for local governments to implement) and better monitoring and reporting for offset sites.
- Reduce and remove the barriers for private landowners to enter the market:
    - Search costs
    - Education
    - Slow release of funds to suit landholder (or investigate NSW system ie. payments over 100yrs?)
    - Transparency
- Build and develop the market to be driven transparently by private landowners with support from governments. Access to offset availability data.
- Offsets should be based on good science. We need detailed loss data to appropriately offset. On-site assessments are vital. Can't rely on desktop and modeling alone.

End of session 3 reflections: Big picture reflections

- The framework today reflects the thinking of the late 1990's so no wonder it seems outdated.
- Because of an emphasis on accounting we're seeing a lack of strategic ecological perspective.
- We need a State biodiversity strategy to put this into context. This requires a spatial element.
- Less mechanistic more holistic perspective required. The accounting of this is distorting conservation/biodiversity planning.
- What we are basically saying is keep the framework as is but make improvements.

Session 4

Next steps – comments from individual atttendees:

General thrust – Framework not too bad – enhance it.

What is the underlying agenda of the Review?

NVP still competing with Growth corridors and development. Should set submissions in this reality.

Need to consider development and vegetation around Melbourne.

Can some of our ideas improve biodiversity and achieve 'streamlining'/reducing regulatory burden?

The DSE's secondary priorities should be brought forward and that would address some of our concerns.

The consultation process – DSE committed to a relatively public process. This is very valuable and there are now opportunities for us.

We won't have an opportunity for input on Habitat Hectare methodology.

We want to be consulted especially on areas that we have knowledge in.

There are risks involved in DSE's proposed approach towards allowing offsets of smaller areas.

DSE's data on clearing/veg loss is flawed. Also lag time for the realization of actual impacts needs to be factored in.

Consultation period - Local government about to go into caretaker mode and can't get approval.

DSE's not organizing any similar consultation to this workshop today.

Want quality consultation for the second round.

There needs to be more stakeholder engagement.

VNPA to contact the DSE to seek further consultation with native veg practitioners on – Habitat Hectares and other areas of expertise.

Organise a summary document – how will the community be able to engage with this process? – can DSE summarise it and make available for the community?

VNPA may do this for environment groups.

What can we do (submissions) to have the best impact?

Could ecological consultants get together with developers for a joint submission?

Remember Federal level and consider this in submissions

Submissions from all levels are required (individual upwards)

Landholders who have offsets/credits who may be affected should make submissions too

May not all be able to support a group submission however would like the workshop notes to be submitted. This would be introduced/hosted by VNPA and the EDO. The

notes would document the types of attendees but not name them or their organisations. A statement along the lines of: “these notes to not have the implied endorsement of the attendees” should accompany the notes.

Need to identify whether/wehre there is overlap with the DSE consultation paper.

EDO and VNPA also to push for a time extension to allow Local Government to submit.

Feedback on the workshop:

Encouraging that everyone’s thinking the same things. Useful to have this session.

Empowering to get together.

Good to have people from different organizations coming together.

Good because ecological consultants don’t have a forum to come together and state their opinion.

Good to have DSE here and to hear what they have to say.

Good that we stayed positive (not a whinge session)

Role of VNPA and EDO providing an interface between professionals and the community is important.

Might need another round of this before the consultation process is over.