Victoria’s native vegetation reforms 2017
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Native vegetation reforms

- Minimisation and avoidance
- When should a permit be refused?
- Designating high value native vegetation
- Compliance and enforcement
Minimisation and avoidance

Clause 52.17

- Avoid the removal, destruction or lopping of native vegetation.
- Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.
- Provide an offset to compensate for the biodiversity impact from the removal, destruction or lopping of native vegetation.

- Efforts should be proportionate to vegetation value, and focused on highest value vegetation.
- Avoid and minimise statement – all applications
Avoid and minimise statement

…describes any efforts to avoid the removal of, and minimise the impacts on the biodiversity and other values of native vegetation, and how these efforts focussed on areas of native vegetation that have the most value…

The statement should describe:

• any strategic level planning over the site [has the site been subject to a regional or landscape scale strategic planning process that appropriately avoided and minimised impacts on native vegetation?]

• what site level planning has been done [has the proposed use or development been appropriately sited or designed to avoid and minimise impacts on native vegetation?]

• that no feasible opportunities exist to further avoid and minimise impacts on native vegetation without undermining the key objectives of the proposal. (Guidelines, p 21 [p 24])
Assessing avoid and minimise statement

• Low impact on native vegetation values + some effort to avoid and minimise:
  – the statement is acceptable; and
  – a permit should be issued

• Applications in the basic pathway: assumed low impact on biodiversity value

• High impact on native vegetation values + not feasible to further avoid/minimise without undermining a key objective of the proposal:
  – the statement is acceptable; and
  – the decision maker should consider whether to refuse to grant a permit

• “Not feasible” ?
When should a permit be refused?

- Multiple, complex biodiversity values of native vegetation
- No guidance on overarching decision as to value or when permit should be refused
- Discretion for decision maker
- “Provide clearer guidance on when to refuse an application to remove native vegetation”?
- Inconsistency, suboptimal decisions and waste
Designating high biodiversity value vegetation

• Guidance – when impacts acceptable – or not

• Strategic planning
  – ‘Planning for Biodiversity Guidance’ (DELWP, 2017)
  – Many advantages
  – Who should be responsible?
  – What scale?
  – How likely is it to happen?

• Review of Flora and Fauna Guarantee Act 1988
  – Critical habitat protection + precautionary principle = no-go zones
  – Reforms unclear
Compliance and enforcement

- Concerns – illegal clearing and non-compliance with offset conditions
- ‘Compliance and enforcement strategy’ (DELWP, 2017)
- Guidance to local government; onus on local government
- Standard compliance and enforcement principles and practice
- Specific guidance on response to illegal clearing