



**Review of the
Native Vegetation Clearing Regulations**

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Submission by

LGPro

Biodiversity Planning Network

Special Interest Group

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1. Introduction

LGPro welcomes the opportunity to comment on the consultation paper '*Review of the Native Vegetation Clearing Regulations*'. This submission was prepared by LGPro with direct input and expertise and knowledge of the LGPro Biodiversity Planning Network Special Interest Group (BPN SIG).

The BPN is a group of Local Government officers that are professionals in the environmental field. We are expert practitioners of the current native vegetation permitted clearing regulations, state and local policies and guidelines surrounding the regulations. The group has evolved since 2008, becoming a formalised LGPro Special Interest Group in July 2012. The network's conception was due to frustration among Local Government officers resulting from inconsistent support or inadequate availability of information relating to native vegetation regulations. Officers participating in the group include representatives from a number of Local Governments from in and around Melbourne including urban growth areas, urban and interface councils, as well as regional and rural municipalities.

These Local Governments have a combined population of well over 2.2 million people, extending from East Gippsland to the Western District and from Melbourne to the Murray River. Each municipality with representatives in the BPN has an ongoing involvement in biodiversity conservation and sustainable land management. The combined area of land under their management includes a diversity of species and habitats; from volcanic plains to coastal ecosystems to woodland and drier forests of the foothills, and the wet forests of the Dandenong Ranges and Central Highlands. Remnant vegetation retained throughout these municipalities has a high proportion of EVCs with restricted distribution, as well as providing habitat for a number of state and national rare or threatened species.

The BPN has detailed insights into the implementation and implications of the native vegetation clearing regulations and is well-placed to provide advice to the State Government regarding the proposed improvements resulting from the review of the current native vegetation clearing regulations.

2. General comments regarding the review

The BPN generally is supportive of the review of the Native Vegetation Clearing Regulations and the improvements proposed in the consultation paper released on Thursday 17th March 2016. The extent of consultation undertaken during development of the paper has resulted in some proposed improvements that will provide a much improved system of native vegetation clearing regulations compared to the current regulations, provided the implementation strategy is developed thoroughly, carefully and collaboratively. The BPN is pleased that the review bases proposed improvements on the characteristics of a good regulatory system. Generally, the BPN considers the proposed improvements in the six key themes will result in much-needed improvement to the regulations and awaits more detail of the implementation strategy.

The BPN is among the key users of current and future regulations and is keen to see that the implementation process of any reforms also is improved. **The implementation of the current regulations was fast-tracked despite known flaws in the system; the BPN emphatically supports a delayed implementation of any reforms if such a delay will result in native vegetation clearing regulations with improved functionality, reliability and accuracy.** It is critical that the native vegetation clearing regulations interact cohesively and productively with key legislation and policies including *Protecting Victoria's Environment – Biodiversity 2036* (Biodiversity Strategy), the *Flora and Fauna Guarantee Act 1988* (FFG Act) and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). **Without such interactions, the State Government of Victoria will be challenged to achieve the net gain (or even no net loss) objective for native habitats across the State.**

Whilst the BPN acknowledges it was beyond the scope of the current review to review the relevant exemptions, it is noted that a full review of the implementation and implications of the Native Vegetation Clearing Regulations is not complete without consideration of the relevant exemptions, including those that apply under Clause 52.48 Bushfire Exemptions.

LGPro is concerned that the review of the native vegetation clearing regulations continues to reflect a greater emphasis on efficiency and cost effectiveness than on protection of Victoria's biodiversity in a manner consistent with principles identified in numerous Federal and Victorian Government legislation, policies and agreements, as listed below:

- Intergovernmental Agreement on the Environment, signed in October 1990 by the Heads of Government of the Commonwealth, States and Territories of Australia, and representatives of Local Government in Australia, to provide a mechanism by which to facilitate better protection of the environment, including a cooperative national approach.
- National Framework for the Management and Monitoring of Australia's Native Vegetation 2001 Natural Resource Management Ministerial Council
- Australia's Biodiversity Conservation Strategy 2010–2030, prepared by the Natural Resource Management Ministerial Council
- The *Environment Protection Act 1970* (VIC)

- EPBC Act - Land Clearance - a Listed Key Threatening Processes
- FFG Act 1988 Action Statement No. 192 - Loss of hollow bearing trees from Victorian native forests
- Assessing the Effectiveness of Local Government Planning Scheme Controls in Protecting Native Vegetation in the Port Phillip & Western Port Region (2009) Report by Parson Brinkerhoff Australia Pty Ltd for Port Phillip and Westernport CMA.

The continuation of a largely economic approach to native vegetation clearing regulation presented in the current review does not adequately recognise that native vegetation is diverse, dynamic and not readily assessed by the lay person. It continues to over-simplify a complex system and in doing so undermines the values that native vegetation provides to the community and the value that community should place on native vegetation. Without adequate funding and commitment to implementing the proposed improvements identified in the consultation paper, there is a great risk that the State Government of Victoria will continue to witness a net loss of native vegetation – and biodiversity - across the Victorian landscape.

The BPN is willing to work with the State Government – including via small working groups involving Local Government officers - to facilitate the implementation of effective native vegetation clearing regulations and help achieve no net loss of native vegetation across the Victorian landscape. The BPN is able to assist with a range of tasks, including the development of the implementation strategy, formulation of the guidance document(s), development of an effective enforcement and compliance strategy, consideration of how to assess impacts of applications on local biodiversity, and review of the relevant exemptions.

This submission has been prepared with careful consideration of the proposed improvements and with a thorough understanding, knowledge and experience of implementing the current regulations at the local level. It addresses concerns and suggestions that LGPro has for the six key themes and 29 proposed improvements.

3. Comments relating to the key themes identified in the Review of the Native Vegetation Clearing Regulations

1. Native vegetation clearing policy

It is vital that the guidance material that is developed be included in one document and that the document be an incorporated document under Cl. 52.17 (and Cl. 52.16) of the Victorian Planning Schemes. Further, it is important that the State Government assist municipal Councils to develop local overlays that will ensure local biodiversity priorities can be prioritised and protected.

2. Permit process and decision making

Protection of large, old and/or hollow trees is critically important for protection of Victoria's biodiversity. The contribution such trees make to Victoria's biodiversity is significant and it is critical this contribution is recognised through adequate planning controls under Clause 52.17. Proposed improvement 15 seeks to address this to some extent but additional improvements are required. The proposed improvements do not adequately protect significant trees.

Reducing the threshold for higher risk-based pathway applications to 0.5ha or 7 trees is widely supported, however some Councils identified that a lower threshold would be more appropriate with some Councils requesting that the threshold be as low as 0.2ha under certain circumstances. In some Council areas, 0.2ha represents approximately 80 trees, so a 0.5ha threshold would represent a significant amount of native vegetation in these municipalities.

The BPN is supportive of several inclusions in the existing Biodiversity Assessment Handbook ('Handbook'), such as the subdivision to <0.4ha results in all native vegetation being considered lost. The inclusions should remain in the definitions. The method for calculating vegetation loss within defendable space seems to be working in treed EVCs (largely resulting in considering 100% loss in defendable space).

The BPN recommends that DELWP be reverted to 'determining authority' from 'recommending authority'.

3. Biodiversity information tools used in decision making and offset rules

The BPN generally is supportive of the proposed improvements relating to biodiversity information tools used in decision-making and offset rules, however the following points are critical if these tools are to be relied upon to a) determine what constitutes significant biodiversity, b) determine what is a risk to that significant biodiversity, c) guide effective, fair and responsible decision-making relating to applications to remove native vegetation, and d) defend any decisions made:

- The tools need to be based upon the best information available – currently, significant (and very knowledgeable) groups within our community and within Local Government know that the VBA is plagued by gross inaccuracies and is so

slow to incorporate data that they refuse to submit data to the VBA. This severely compromises the quality of the information within the VBA and results in models that are not based on the best information and so are not sufficiently accurate.

- A repeatable and documented process must be established as a result of this review which enables and requires DELWP to officially capture the situations where information in the tools is shown to be inaccurate and to provide a timely written response to Responsible Authorities documenting that the specific information in question is to be ignored (false positives) or utilised (false negatives).

4. Offset delivery

The BPN recognises that opening the offset market to the catchment scale was introduced to increase market functionality, however the impact on regional biodiversity has been significant. Since the introduction of the current Clause 52.17, most offsets for vegetation lost within the Port Phillip and Westernport Catchment Management area have been achieved in the western suburbs of Melbourne, resulting in a disproportionate spread of offsets compared with loss and disproportionate loss of some vegetation types. Therefore, the BPN strongly recommends that bioregional offsetting be reintroduced.

5. Exemptions

Planning Schemes are public documents and therefore must be expected to be read by interested members of the public. Accordingly, guidance relating to exemptions under Cl. 52.17 should be provided as an incorporated document (or within the revised Biodiversity Assessment Handbook, an incorporated document). The guidance is as much required by the general public (who generally do not seek advice on how to interpret exemptions) as it is by professional planners and others. Guidance provided as an incorporated document will facilitate ease of access, understanding and consistent interpretation and application. In this way, the guidance will assist applicants and Local Government assessing applications by providing clear guidance on the application of exemptions for their intended purpose. Biodiversity Practice Notes will not be accessed nor read as legally meaningful by legal advisers, community leaders or interest groups (e.g. VFF). Only an incorporated document is likely to be adequately useful.

The review of the Native Vegetation Clearing Regulations is incomplete without a thorough review of the exemptions associated with Cl. 52.17 Native Vegetation. Some Councils represented in the BPN expressed a willingness to remove the exemption for works under \$1M in an effort to show leadership. Specific exemptions under Cl. 52.17 that need urgent review and guidance include: emergency works, fencing, lopping/pruning and vehicle access from public roads. A prominent note appended to Cl. 52.17 should alert readers to check for overlays that extinguish these exemptions in specified circumstances and areas.

Importantly, the interactions of the Clause 52.48 Bushfire Exemptions on native vegetation require serious consideration. Whilst the BPN understands a review of the Cl. 52.48 exemptions is not part of the current regulations review, the impact on native vegetation from the bushfire exemptions cannot be ignored, given the significant impact it has on the condition and extent of native vegetation across Victoria. Most critically, exemptions (Cl. 52.17 and/or

Cl. 52.48) impact significantly on Victoria's biodiversity and seriously compromise any accurate assessment of the contribution any permitted clearing of vegetation makes to Victoria's biodiversity.

6. Compliance and enforcement

There is much potential for improvement in this key theme, including funding, training, guidance, and departmental support and leadership.

4. **Assessment of Proposed Improvements**

1. **Clarify that the primary focus of the regulations is to ensure avoidance of native vegetation removal where possible**

- The BPN supports the application of the avoidance and minimisation principle for all applications. This ensures an equitable and consistent process.
- The BPN requests that the phrase 'where possible' is removed or that guidance is provided on what would equate to 'not possible'. What is the definition of 'where possible'? Historically, ambiguity in the avoidance and minimisation principle has enabled applicants to state they have considered avoidance and minimisation but applied the principle in a limited way as it limits their ability to proceed with their application. If the primary focus of the regulations is to ensure avoidance of native vegetation removal, such ambiguity must be removed.
- The review document retains reference to 'significant contribution to Victoria's biodiversity' from the existing native vegetation permitted clearing regulations. This is concerning as it remains unclear as to how the 'contribution' to Victoria's biodiversity is measured. The wording 'significant contribution to Victoria's biodiversity' should be removed, or if this is not possible then the phrase must be clarified. It is not clear from the proposed improvements what constitutes a 'significant' contribution to Victoria's biodiversity, what factors are considered in setting the threshold of what is considered 'significant', and how contribution would be measured. Based on the current system, within some Local Government areas little vegetation is considered to make a 'significant' contribution. If this approach continued, very few applications would require the avoidance of native vegetation. Clearly, this would not be an acceptable outcome and would (collectively) result in a significant impact on Victoria's biodiversity.
 - o How will the assessment of the 'contribution to Victoria's biodiversity' be reflected in the proposed new system that is not based on 'risk' to Victoria's biodiversity?
- Is this improvement suggesting the 3-step approach only applies if the vegetation proposed to be removed makes a significant contribution to Victoria's biodiversity? The wording of such statements is critical.
- The principles of avoidance and minimisation needs to be extended to 'other matters' such as local biodiversity matters, erosion, salinity and environmental landscape values to ensure that all applications are considered holistically. Such 'other matters' combine to impact on Victoria's biodiversity.

2. **Consolidate comprehensive policy guidance for native vegetation removal**

- The BPN strongly supports this proposed improvement. Currently many Councils assess applications for vegetation removal under Cl. 52.17 based on 'state biodiversity' matters largely due to a lack of guidance about how to consider 'other matters'. Consequently, since the introduction of the permitted clearing regulations, many

applications have been approved without a requirement for avoidance or minimisation. Guidance material is critical for effective, fair and consistent implementation of the Native Vegetation Clearing Regulations.

- Other matters should include:
 - o 'Cumulative impacts' must be another 'other matter' in 52.17 e.g. cumulative impacts on native vegetation, erosion, salinity.
 - Cumulative impacts relate directly to significant impacts on Victoria's biodiversity.
 - o *Flora and Fauna Guarantee Act 1988* (FFG Act) threatening processes that relate to native vegetation removal (i.e. loss of hollow-bearing trees).
- The BPN requests that guidance material be developed to assist Local Government to consider (and assess) 'other matters', including specific guidance about how to assess the cumulative impacts of small scale vegetation clearing. For example, the removal of one or two trees might not directly cause erosion, salinity or environmental landscape issues, but the cumulative effect of hundreds or thousands of applications to remove one or two trees may well result in such issues.
- Significant issues exist where there is disconnect between the regulations and the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Currently, Clause 52.17 does not reference the EPBC Act. Often, Local Government is providing threatened species advice to applicants, potentially leading to inconsistent and piecemeal planning outcomes. Integrating FFG and EPBC considerations (to some extent) into Cl. 52.17 application assessments will reduce or eliminate such outcomes. The BPN requests that the revised Clause 52.17 and incorporated document(s) provide guidance or reference to the requirements of the EPBC Act.
 - o The disconnect needs to be addressed through the regulations.
 - o The disconnect could be resolved via another 'check box' on the applicant's checklist when submitting an application under Cl. 52.17, with a statement addressing other legislation (FFG & EPBC), to ensure they have considered and addressed the other relevant legislation. Guidance on this could be included in the amended Biodiversity Assessment Handbook/Guidelines.
- Determination of what vegetation clearing constitutes significant impact on species' habitat is dependent on regular updates of maps (species habitat maps). It is critical that species habitat maps are updated regularly – ideally, the system would be live so permitted vegetation clearance from a species' habitat was removed from the balance habitat to reveal a live extent of habitat. This would be valuable, however limited by a lack of knowledge of the extent and location of exempt and unpermitted vegetation clearance within species habitat. A (online) register of vegetation cleared under the exemptions would facilitate the tracking of remaining species habitat.
- To facilitate consistent interpretation and application of the exemptions, the updated Biodiversity Assessment Handbook, or an alternative but incorporated document, would include the 'guidance'. There also should be a solid commitment from the Department to regular updates (6-monthly, or annually) and the method in which they will undertake this, preferably including a panel/reference group with environmental, industry and Council representatives. Amendments to the Handbook could include 'planning note' style updates to ensure all information remains in one

consolidated location. Notification of amendments to the Handbook must be communicated to Local Government, the general public and other stakeholders via the DELWP website and other communication channels.

- The BPN requests that the Department engages with us, often.

3. Develop guidance to support strategic planning relating to native vegetation protection and management

- The BPN acknowledges it is important to get the system right and is confident improvements can be achieved if the system is developed in consultation with Local Government. This is particularly important as Local Government is the end user.
- Section 12 of the SPPFs could be updated in consultation with Local Government to bring it up to date and provide a more supportive framework for the development of local policies relating to biodiversity protection.
- Currently, developing or updating environmental overlays is costly, time consuming and slow to get approved. Consequently, municipalities that support areas of significant environmental values worthy of protection, but that are constrained by relatively small budgets, do not have the option to develop environmental overlays necessary to protect local environmental (including biodiversity) assets. This is a serious issue, as the implementation of the current native vegetation clearing regulations heralded an expressed expectation that Local Government would update local planning schemes in order to address inevitable gaps between the State's priorities (State biodiversity) and Local Government's priorities (local biodiversity). The BPN requests that the State Government acknowledge and support the development of local overlays that protect local and regional biodiversity.
- The process of planning scheme amendments needs to be simplified to facilitate Local Governments setting local biodiversity priorities. As stated on page 16 of the Consultation Paper, 'Many Councils also stated that the undertaking and updating their strategic plans to protect and conserve biodiversity was prohibitively expensive and not a priority.' Therefore, as well as providing guidance, DELWP needs to support local Councils by facilitating processes that help address these issues – such as simplifying and reducing resources required to implement the process of planning scheme amendments.
- The BPN recommends a new streamlined approval process to facilitate development and implementation of Environmental Significance Overlays.
- Additional schedules like 'local matters' could be introduced for implementation under Cl. 52.17.

4. Improve monitoring to determine if the regulations are achieving their objective and make this information publicly available

- The BPN strongly supports a state-wide system which records and monitors all vegetation that is avoided or removed and offset. In addition, the BPN strongly recommends such a system incorporates tracking vegetation removed under the exemptions (see below).

- It is critical that a mechanism be introduced to monitor native vegetation cleared under clearing exemptions. A process for tracking exempt vegetation clearance is fundamental to success of the permitted clearing regulations – currently, there is no way to regulate exempt vegetation removal, however a simple online system or aerial imagery analysis could be useful. An online register system could be developed whereby people seeking to remove vegetation under exemptions would enter the address, location and extent of the clearing with no (or limited, almost instant) approvals process. This would prevent enforcement action erroneously being taken against legitimately exempt vegetation removal and would provide better opportunities to track the extent of threatened species habitat cleared, including that cleared under the exemptions. In this way, such a system would assist monitoring the implementation of the regulations and whether the regulations are achieving their objectives.
- The BPN generally is supportive of improved monitoring but questions how this proposed improvement will be implemented. The BPN is concerned that the responsibility and economic/resource burden of achieving this (necessary) improvement will be transferred to Local Government. The BPN supports the State setting up a monitoring system and implementing it and acknowledges that Local Government does not have the resources to set up or run a monitoring system, nor the ability to collect data about vegetation removal. In particular, the BPN questions:
 - o Who will fund improved monitoring? Currently, the reporting of vegetation loss falls on Local Government and there is little capacity for Local Government to increase monitoring efforts although there is widespread acceptance that there is a great need for improved monitoring. Increased funding and other support from the State may generate an improved system of monitoring using existing local government structures, processes and mechanisms. For example, there is already a tracking system for permits; this could be retrofitted reasonably simply to enable Local Government (statutory planners) to input permitted vegetation loss to facilitate tracking permitted (and exempt) vegetation loss. However, Local Government could not resource this additional burden without assistance from the State.
 - o Is it the expectation that local government will undertake the monitoring or will DELWP take leadership?
- The BPN is concerned that the requirement for the monitoring or reporting of clearing under exemptions may be expected of Local Government, resulting in a prohibitive resource burden on Local Government operating in an increasingly constrained economic environment. Currently, residents are not required to notify Councils (and/or the State) when they clear native vegetation under exemptions, thus Local Government (and/or the State) do not have any knowledge of what vegetation is being cleared under exemptions. Such information could be estimated from aerial/satellite imagery (although complicated by unpermitted/illegal clearing), however Local Government is not resourced to undertake such analyses.
- Aerial or satellite imagery analysis should be undertaken as part of monitoring efforts. The State Government should be tracking changes revealed by imagery analysis along with tracking the permits. This type of analysis can be broken down into any land

tenure for further investigation, for example Local Government Area, Bioregion, CMA, etc. Such analysis also could be a tool to trigger enforcement action or investigation for substantial vegetation clearance.

- Aerial or satellite imagery analysis needs to be funded by State Government owing to the high (prohibitive, in many Local Governments) cost of obtaining current imagery and analysing images, particularly in a rate-capping environment.
- The State could support Local Government to assist with monitoring efforts by forming a dedicated support team, particularly in the first 18 months, and offering workshops, training and grant-funded positions to assist less resourced Councils in particular.
- Adequate reporting must be mandatory for MoUs, if MoUs even are considered appropriate under the new regulations. If MoUs persist, there should continue to be mandatory works notification to relevant Councils.

5. Reduce the low risk-based pathway threshold

- The BPN generally is supportive of a reduction in the threshold for the low-risk based pathway, however it must be explicit that Councils can refuse low risk-based pathway applications and, importantly, on what grounds Councils could refuse such applications under Cl. 52.17.
- The BPN is concerned that the contribution (and the impact of cumulative losses) of locally significant biodiversity on the State's biodiversity has not been adequately factored into determination of risk-based pathways.
- The suggested threshold of 0.5ha or seven trees is a significant improvement over the current threshold, however some Councils identified that a 0.2ha threshold would be more appropriate – in forest or woodland vegetation types, proposals to remove 0.2ha of native vegetation could conservatively represent removal of approximately 80 trees. Thus, the thresholds may need to relate more closely to site-specific conditions such as vegetation community or local biodiversity attributes.
- On what scientific (or other) premise will the thresholds be based?
- There is a need for the threshold to consider factors (other than area or number of trees) that may present a higher 'risk' to the State's biodiversity, for example: large old trees vs. lesser value trees, EVCs, etc.
- The BPN reiterates that it is vital that applications with reduced low-risk thresholds can be refused by Council if an application does not address avoidance and minimisation principles or is not consistent with DELWP guidance about 'other matters'.

6. Replace the native vegetation location risk map with an updated map of highly localised habitats

- The BPN is very supportive of the removal of the location risk map.
- In relation to Biodiversity Tools, including the native vegetation location risk map and highly localised habitat maps, the BPN strongly considers the following points are

critical if these tools are to be relied upon to a) determine what constitutes significant biodiversity, b) determine what is a risk to that significant biodiversity, c) guide effective, fair and responsible decision-making relating to applications to remove native vegetation, and d) defend any decisions made, then:

- The tools need to be based upon the best information available – currently, significant (and very knowledgeable) groups within our community and within Local Government know that the VBA is plagued by gross inaccuracies and so slow to incorporate data that they refuse to submit data to the VBA. This severely compromises the quality of the information within the VBA and results in models that are not based on the best information and so are not sufficiently accurate.
- A repeatable and documented process must be established as a result of this review which enables and requires DELWP to officially capture the situations where information in the tools is shown to be inaccurate and provide a timely written response to Responsible Authorities documenting that the specific information in question is to be ignored (false positives) or utilised (false negatives).
- The BPN supports the use of highly localised habitats to a limited extent. However we are concerned that there is insufficient data relating to many rare or threatened species. We request that DELWP invest heavily in data collection/research efforts to gather more data for each rare or threatened species, prioritising species in areas of high vegetation clearance.
- There is a critical and absolute need for improved resourcing to increase data submission and dataset curation/quality control, which are the bases for the maps (and therefore planning decisions).
- The BPN is concerned that replacing physical site-based biodiversity assessments conducted by qualified consultants with modelled biodiversity values will result in *less* data being collected, which in turn will result in *less* understanding of highly localised habitats, thus more erroneous, deleterious planning decisions and increased impacts on species with highly localised habitats.
- Highly localised habitats do not represent habitats for every threatened species. Therefore, focussing on highly localised habitats will not prevent impacts on other threatened species.
- The BPN considers it critical that threatened EVCs (at least endangered and vulnerable) are included in considerations of planning applications under Cl. 52.17. Threatened Communities of Flora & Fauna as listed under the FFG Act also could be considered (FFG Communities are now mapped/modelled by DELWP)
- The BPN recommends that DELWP develop a new fast-tracked data entry system or process. Many Councils, ecologists and other reliable sources have records of threatened species that have not been entered into the VBA/FIS and therefore are not currently informing DELWP biodiversity (risk, habitat, etc.) models. The current system for providing data to DELWP is time consuming and cumbersome. These data need to be entered simply and quickly and informing DELWP models in 'real time'.
- The BPN requests development and publication of a schedule or commitment to regular (6-monthly/12-monthly) updates of the modelled data. Having a published

schedule of timeframes and/or deadlines for submission of data for inclusion into these scheduled updates would allow Local Government and local community groups to prepare adequately for these data submissions.

7. Require an avoid and minimisation statement for all applications and consider this in decision making

- The BPN supports the requirement for an avoidance and minimisation statement for all applications.
- This proposed improvement needs a proper framework and written explanation to ensure worthwhile implementation and outcomes. The BPN recommends DELWP provide detailed guidance about what constitutes sufficient avoidance and minimisation. Local Government identified that applicants regularly state that vegetation proposed for removal does not contain rare or threatened species therefore vegetation removal does not need to be avoided, or that avoiding vegetation removal will prevent 'efficient subdivision' so 'on balance' avoidance is not possible. In other cases, applicants provide ambit claims about what they could have applied to build (e.g. 3 sheds, a 300+m long driveway, an expansive house) to demonstrate that their (relatively) reduced extent of proposed vegetation clearance constitutes avoidance and minimisation so they do not need to avoid any further vegetation removal.
- The Handbook needs to define the principle of avoid and minimise, and give guidance to assist Councils assessing avoid and minimisation statements. This is particularly important for less resourced Local Governments, as this support and guidance for decision-making will be vital for consistent outcomes across the state. This could facilitate achieving proposed improvement 1.
- The rationale for this proposed improvement refers to steps taken to avoid or minimise their impacts on Victoria's biodiversity – it is vital that impacts on locally significant biodiversity are considered, as incremental losses to locally significant biodiversity manifest as gross impacts on the State's biodiversity?

8. Require an offset strategy for all applications and consider this in decision-making

- The BPN strongly supports all applicants providing a strategy or description about how offset requirements will be satisfied. This proposed improvement will ensure applicants know up-front their future offset costs or land management requirements.

9. Change to two pathways, a 'lower assessment pathway' and a 'higher assessment pathway'

- The BPN strongly supports this proposed improvement as it will result in a simpler process for all applicants, depending on the thresholds set for each category. If thresholds are based on what is proposed (7 trees/0.5ha or site specific threshold) then the proposed improvement would be acceptable. However, if the thresholds are

more complex, this proposed improvement could result in a more complex process for applicants.

- The Responsible Authority should have the ability to determine (generally, elevate) the pathway based on site-based information.

10. Provide clearer guidance on when to refuse an application to remove native vegetation

- The BPN supports clearer guidance about when to refuse an application. Based on current guidance, some Councils have not refused or requested any changes to any application under Cl. 52.17 since the introduction of the permitted clearing regulations. This is not due to low-level biodiversity impacts but rather due to lack of guidance and support from DELWP and a lack of clarity on how to consider 'other matters'. This situation indicates the current system is not driving effective environmental planning outcomes and needs to be improved, including through provision of clearer guidance.
- Whilst the BPN is supportive, support depends on the definition of 'significant impact on Victoria's biodiversity'. It remains unclear how the contribution of an area of native vegetation to Victoria's biodiversity is calculated. It continues to be concerning that there are complex, untested hypotheses underpinning any assessment of contributions to Victoria's biodiversity. Indeed, incremental loss of native vegetation has a significant (catastrophic) impact on Victoria's biodiversity, yet is not considered in any way through the models or in decision-making under the current system. Assessing applications against some unfounded contribution the vegetation makes to Victoria's biodiversity is fraught and potentially misguided.

11. Include a decision guideline that allows Councils to consider locally important biodiversity when assessing applications

- The BPN generally is supportive of the inclusion of a decision guideline that allows Councils to consider locally important biodiversity when assessing applications but seeks clarity on the following:
 - o What test or measure would be used to determine locally important biodiversity?
 - o How would this interact with local planning controls (namely overlays)?
 - o Could this be as simple as a dot point in the MSS or a specific tree protection policy?
 - o Many Councils do not have resources to develop local threatened species strategies or conduct scientific studies to generate maps of local biodiversity. In the absence of such documents how would Council measure the impacts to local biodiversity? Such requirements to determine local importance could lead to biodiversity only being protected by municipalities who can afford local biodiversity plans; thus biodiversity protection may be directly proportional to how much money a Council has to undertake studies or develop policies.

- The decision guideline needs to clearly articulate how local biodiversity of importance should be referenced in local planning scheme(s) to provide increased protection.

12. Allow habitat characteristic information collected at the site to be used to supplement the maps of a species habitat in the permit application process and for offset sites

- The BPN supports habitat data (e.g. hollows, logs, dead stags, foraging/nesting habitat, etc.) collected at the site being used as supplementary information for assessing permit applications and for determining offsets/offset sites. Regularly, suitable habitat for threatened species is discovered that is not reflected in the species habitat maps.
- Habitat characteristic information used to supplement the maps of a species habitat should be submitted to the State for consideration for inclusion in databases that inform the species habitat maps. This would generate opportunities to increase data submission and improve species habitat maps (see comments relating to proposed improvement 6).
- The BPN considers there is a critical need to introduce mandatory standards to the ecological consulting industry. However, the BPN would not support changes that would exclude valuable data contributors that may not be 'suitably qualified ecological consultants', for example, Friends groups, Field Naturalists, local 'experts', or Council environment officers. Such contributors should be able to provide information that is able to be substantiated and verified either by the RA or an independent data review expert panel (see below). The BPN does not support such information being collected solely by qualified consultant ecologists as this would favour those applicants who are able to afford expert ecologists.
- This proposed improvement relates specifically to applications assessed under the proposed 'low assessment pathway' – the proposed improvement could link in/provide triggers for assessment of vegetation considered of high *local* significance that might otherwise not be assessed.
- The BPN is concerned at the rationale: 'while managing the impact of bias and observability associated with site-collected data' – the impact of errors in the data and models may be more significant than the impact of errors associated with site-collected data.
- It is important the system can operate to both increase and decrease habitat importance.
- There must be very explicit data standards without being exclusionary (the data just needs to be verifiable (i.e. photo of Powerful Owl nesting in a hollow tree could be submitted)). Quality control of the datasets is more critical.
- The introduction of an independent data review expert panel would be valuable. For example, Council, proponents and other stakeholders could engage the independent panel to review and approve changes wrought by the site-collected data ('expert' conciliation, pre-VCAT).

13. Increase the information available about the maps used in the regulations and improve their accessibility

- The BPN is strongly supportive of this proposed improvement but welcomes more information on how this will be achieved. At a minimum, the information provided must include the methodology used to generate the models and the limitations of use. Transparency is vital for trust in the system and for the ability to challenge (and defend) the system.
- Models and assumptions must be published in a peer reviewed journal.

14. Place greater emphasis on key areas of habitat for dispersed species in decision-making and offset requirements

- The BPN is supportive but welcomes more information on how this will be achieved. In particular, we request clear guidance about how these data will be collected, who will collect these data and how it will influence decision-making.
- Greater clarity is required regarding how 'key areas of habitat' are defined: what constitutes 'key areas of habitat'?
- Individual applications may not trigger specific offsets, however decision-making processes need to consider the cumulative impacts of vegetation/habitat loss on rare *and* threatened species. Some mechanism needs to be introduced to offset the impact of cumulative loss of habitat on rare and threatened species.
- Section 3.2.5 specifically refers to EVCs – yet there is no mention of EVCs in proposed improvement 14 (including associated description or rationale).
- A DELWP-administered panel (data review expert panel, as suggested above) could be established to assess the information lodged on such habitats/locations for inclusion into the Habitat Importance Maps and/or the new 'Risk Map' replacement.

15. Differentiate between the biodiversity value of scattered trees for use in decision making and offset requirement determination

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved, including how to differentiate the biodiversity value of scattered trees in a way that will generate consistent interpretation and application and appropriate biodiversity and planning outcomes. Further, we request that it extends to all large and/or old trees. Currently an application to remove a small sapling is treated the same as an application to remove a large (and old) habitat tree. The current system easily allows large, old habitat trees (for example, those in excess of 100 years old) to be removed and 'offset' (though large, old habitat trees cannot truly be offset in GBEUs). Larger trees, particularly those of hollow bearing size and age, provide a much wider range of critical, irreplaceable ecosystem services than saplings. The removal of such large, old trees must be carefully considered and there must be an explicit decision-making guideline that requires avoiding/minimising the removal of large old trees.
- EVC tree size benchmarks should be reintroduced as the benchmarks are a fully functional system that already exists and (generally) adequately accounts for tree size

variation in different locations/EVCs. The benchmark system could be revised (if necessary) for use in the updated regulations.

- Different growth rates of different species still need to be considered (e.g. PPWPCMA Native Vegetation Plan).
- EVC tree size benchmarks could be tied into updates to NVIM system where applicants can input the circumference (easier and already within many VPPs/LPPs) or DBH of trees proposed for removal and it calculates the offset obligation. This would require some multiplier to be factored into the system dependent upon tree size (perhaps similar to the Native Vegetation Plan (PPWPCMA, 2006) under the Framework). This would be relatively simple, given the data on EVC distribution exists (albeit not perfect, it is solid enough) and the benchmarks for each EVC are available. Such a system would ensure tree size could be considered (as is appropriate) whilst still allowing applicants in the lower assessment pathway to prepare application information largely independently.
- The BPN requests the reintroduction of a separate offset option for scattered trees. Many Councils previously had success with the revegetation and protection offset table provided on page 57 of the Port Phillip and Westernport Native Vegetation Plan. This table leads to easy calculations of first party offsets or for purchasing offsets through an over-the-counter scheme.
- Under the 'Framework' permit holders had to plant on average 30 recruits for every tree removed. The current system however requires the permit holder to protect or revegetate an estimated 1,000-6,000m² of vegetation to offset one scattered tree or pay approximately \$130,000+ per Biodiversity Equivalence Unit. This equates to an estimated \$500-\$4,500 per scattered tree, plus a \$300-\$1,300 transaction cost. This outcome is impractical, expensive and not proportionate, nor similar, to what has been lost. Indeed, the offset site may not even support trees. Furthermore, this system does not offset the loss of the scattered tree(s) near the loss site, which leads to cumulative impacts on local biodiversity and skewed impacts on particular (treed) EVCs. This is a critical issue that must be addressed in the reforms.
- Applications assessed under the proposed higher assessment pathway would require provision of additional, detailed information. However, it is important that similarly detailed information can be required for 'low assessment pathway' applications that seek to remove native vegetation (including large, old trees) from areas of higher local significance.

16. Increase the use and functionality of the credit register

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved.
- A simple improvement could be making the existing credit register information (online trade history) more thorough with the inclusion of both a permit number and municipality in which the loss originated associated with each trade. This could then be publicly available via the monthly update link (as currently), or a separate mailing list (only Local Government if this information was considered sensitive). It would help to provide a snapshot view of the municipalities processing the most permits for native

vegetation removal and provide Local Governments with a simple way of capturing trades that are occurring in association with permits they have issued. It would facilitate monitoring and compliance.

- The BPN requests that the offset tracking system be run and implemented by DELWP as Councils do not have the resources to implement such a system.
- Whilst the BPN supports the registering of first party offset sites on the credit register, we question how long this process will take, whether this will hold up building approvals and whether this will become an unreasonable administrative burden for under resourced Councils.

17. Support the development of the market for low availability offsets

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved.
- The BPN strongly supports first party offsets as they improve local biodiversity, (generally) reduce offsetting costs for permit holders and keep offsets in the local area. They also encourage increased custodianship and environmental stewardship through compulsory land management (via offset management plans).
- The BPN requests that first party offsets for scattered trees or small patches of vegetation be made more simple and accessible. The BPN supports the reintroduction of a simple replanting or protection and replanting ratio.
- Currently, several Councils are observing most (or all) native vegetation offsets being achieved well beyond the municipality – and beyond the relevant bioregions. Indeed, since the introduction of the permitted clearing regulations, most vegetation permitted to be removed within the Port Phillip and Westernport Catchment has been offset at a conservation reserve in Little River. This site, whilst undoubtedly important, often has little-no environmental correlation with the area from which the vegetation being offset was removed.
 - o The BPN strongly recommends that offsets must be located within the same municipality or Bioregion to improve the accountability and ecological relevancy of offsets, achieve no net loss and to ensure the retention of local biodiversity and landscape heterogeneity.
 - o It is important to recognise the significant contribution different broad vegetation types (and specific EVCs) make to Victoria’s biodiversity. For offsetting to begin to redress impacts on the State’s biodiversity, offsets must reflect the ecological contribution of the vegetation permitted to be removed.
- The BPN is concerned to observe that third party offsets commonly are being achieved by ‘protecting’ native vegetation that realistically was never going to be removed. This is resulting in a net (real) loss of biodiversity. In contrast, offset providers who seek to carry out works that would not be done if the land was not being managed as offsets (thus generating real improvements in vegetation condition and/or extent) are being priced out of the market.
 - o DELWP could consider providing better offset compensation for sites that will achieve real improvement in condition and/or extent of native vegetation and

only support offset credits for the 'protection' of native vegetation on private land.

- Offset options need to be extended to help Councils offer small-scale offsets, provided a minimum standard is met to avoid failed offset plantings which undermine the intent of the security and perpetuity of offsets. The following should be considered:
 - o Including a revegetation/replacement planting on-site offset option.
 - o On-title protection for offsets generated for removal of more than four trees.
 - o The intent of a market-based system is that supply is driven by demand – DELWP supporting market development is counter-intuitive, and may encourage the removal of threatened (i.e. high risk/low-availability) vegetation.

18. Require that all third-party offsets are registered on the credit register and meet its standards, including standards for securing the offset

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved as this could generate bottlenecks in the system that slow down permit holders' ability to secure offsets and achieve permit compliance.
- Some Councils expressed concern that the requirement to register all third-party offsets on the Credit Register might impact on over-the-counter schemes that some Councils are developing or have implemented. Particular concern has been expressed that registration of offsets on the credit register will result in the funds for the 10 years of management being held with DELWP and gradually paid back to Council over 10 years. Several Councils do not support this arrangement; if introduced, this would mean several Councils would have to consider ceasing their over-the-counter offset scheme, thus reducing the offset market, affecting market competition (prices) and functionality, and limiting the ability for permit holders to secure offsets. It is noted that some Councils (and private landholders) already do not use the over-the-counter system because they do not want the management money released in staged payments. As discussed, this is likely to be acting as a disincentive to potential credit holders and impacting on market functionality and needs to be addressed as part of the review of the native vegetation clearing regulations.
- The cost of setting up and registering offsets on the Credit Register currently is expensive and may be prohibitive, acting as a disincentive to potential credit holders and impacting on market functionality.
- A threshold could be added to this proposed improvement. For example, if one tree cleared generates an offset of five trees that are planted on a neighbour's property, the receiving site should be registered on the credit register but not necessarily subject to all the Credit Register standards. This may be based on extent of clearing or offset area/size thresholds.

19. Redesign the revegetation standards to ensure desirable revegetation can occur

- The BPN considers a redesign of the revegetation standards is vital and is strongly supportive of this proposed improvement.
- Prior to 2013, under the previous regulations, many permit holders opted to achieve offsets on their own property (first-party offsets) to reduce costs, improve amenity, attract native wildlife, etc. The Biodiversity Assessment Handbook currently contains a series of offset rules that are too limiting and impractical. The experience of several Councils has been that these offset rules have resulted in no first-party offsets being achieved in those municipalities in the last three years, with off-site offsets instead being sourced far from the loss site, with no local biodiversity benefits and an increased cost for permit-holders. Examples of rules that need to be reviewed and improved to achieve better offset outcomes include:
 - o No offsets are permitted within 150 metres of a building (not limited to the subject site) and
 - o Any revegetation must be 2+ hectares.
- The BPN understands the 150 metre rule is due to fuel risk but many Councils believe it is unnecessarily cautious and inflexible and does not allow for site-specific factors to inform decisions. Indeed, some offset management actions such as weed control will reduce (or not increase) fire risk. The BPN therefore suggests that the 150 metre requirement be removed or reduced significantly, with the location of offsets to be determined by Councils in conjunction with the CFA based on site-specific considerations.
- The BPN sees value in revegetation of a size less than two hectares (e.g. planting along degraded creek corridors or to link remnant patches) and recommends that the minimum two hectare revegetation requirement be removed.
- The BPN strongly recommends the reintroduction of the revegetation option for scattered trees.
- How would the proposed revegetation option(s) interact with General Biodiversity Equivalence Units? Would they be an alternative? Or calculated to convert somehow to GBEUs? Could this calculation be generated as an output of NVIM? Such a system could involve inputting a potential offset revegetation site and NVIM generating the credit in GBEUs?
- There needs to be a simple process to convert from GBEU offset obligation to revegetation.
- Thresholds may well apply, above which revegetation is not an option.
- The rationale for proposed improvement 19 identifies that revegetation is available to help address local loss in biodiversity – another issue, though, is the complexity of offset rules (and standards) which, as stated in section 4.2.1, acts as a disincentive to potential offset providers to establish and register offset sites.

20. Create a framework for offsetting on Crown land

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved, in particular around the notion of 'additionality'.

- What is the public interest for this proposed improvement?
- The framework would need to be transparent and publicly available, such as inclusion of an interactive site where Crown offsets are mapped within public land and details of the management of these sites, over and above the standard management, is identified.
- There is some concern amongst the BPN that creating a system in which higher GBEUs can be achieved on Crown land or transferring land to the Crown builds inequity for third party providers. There is concern that such a framework would 'reward' the Crown for inadequate action toward land management obligations.

21. Formalise a set of exemption purposes and principles

- The BPN strongly supports the clarification of exemptions so that vegetation removal under exemptions is minimised and justified.
- The BPN considers that new clearing under exemptions must be recorded. Given much of the clearing of native vegetation in the State occurs under exemptions (both under Cl. 52.17 and Cl. 52.48) (and therefore is not offset) this will provide a much clearer picture about the real state-wide biodiversity losses.
- Although supportive of tracking vegetation removed under exemptions, the BPN requires details about how native vegetation clearances under exemptions will be recorded. Councils do not have the resources to adequately track clearing under exemptions. Such a system would best be resourced and implemented by DELWP.
- There is a critical need for further explanation/definition/guidance of the phrase 'new footprint permanent clearing'.
- The BPN acknowledges the disproportionate impact of exemptions and works undertaken on public land (as demonstrated in Figure 2 within the Protecting Victoria's Environment – Biodiversity 2036) and requests that exemptions be reviewed to address this unmitigated, largely unregulated, impact on Victoria's biodiversity. The clearing occurring under exemptions must be having a significant impact on Victoria's biodiversity, including threatened species habitat, and is extremely concerning.
- The BPN requests that the exemptions be reviewed and workshopped in conjunction with Local Government officers, who have direct understanding of the application and implications of the current exemptions and generally are responsible for communicating this information and providing advice to the public.

22. Clarify wording of exemptions

- The BPN strongly supports clarifying the wording of exemptions within Clause 52.17. We also suggest that this be accompanied by simple, easy to follow diagrams that people seeking to remove native vegetation under exemption(s) can use.
- The BPN considers there is a critical need to work through each of the exemptions, in conjunction with Local Government, and to workshop with Local Government potential interpretations and unintended implications of any 'improved' wording of exemptions.
- In many municipalities, the most commonly used exemptions are the Clause 52.48 Bushfire Exemptions. These exemptions are very broad and the wording is ambiguous. The ambiguous wording of the Clause 52.48 exemptions for the creation of defensible

space is leading to significant unmitigated, largely unregulated, loss of biodiversity on private land. Whilst the BPN acknowledges it is beyond the scope of the current review to consider exemptions under Cl. 52.48, the impact of the interactions of the Cl. 52.48 exemptions on the objectives of Cl. 52.17 and Victoria's biodiversity is significant and warrants serious and urgent review.

- Councils often are required to interpret exemptions for people seeking to remove native vegetation under exemption(s) and have an excellent understanding of the appropriate use of exemptions. Therefore, the BPN request that all Councils are offered the opportunity to help clarify the wording of exemptions.
- The BPN considers there is a need for an initial workshop with a stakeholder group (including relevant Local Government representatives) to consider the wording and rationale for each of the existing 30+ 52.17 exemptions.
- We strongly support the idea of clearly defining the exemptions, including their intent, purpose, principles, evidence (i.e. the need for each exemption and extent of use), how impacts will be avoided/minimised, common misinterpretations, and public transparency measures (e.g. notification, advertising, annual reporting, etc.).

23. Provide guidance on the intent and application of exemptions

- The BPN supports this proposed improvement relating to the provision of guidance material about the intent and application of exemptions. We consider it vital that the Department 'develop guidance material about the application and intent of the exemption to assist Councils and proponents.' Critically, the Department needs to engage with Local Government to ensure guidance is targeted and useful. Therefore, we strongly recommend that DELWP works collaboratively with Councils to jointly develop this guidance material.
- Specific guidance is sought relating to the exemption for timber harvesting access across road reserves supporting native vegetation. At present, plantations complying with the Code of Practice for Timber Harvesting are exempt from requiring a planning permit when harvesting. Operators are only required to advise relevant LGAs of intended harvests through a Timber Harvest Plan (THP) 28 days prior to commencing and the template provided in the Code for these THPs does not address the impact of activities off the plantation land except road usage. As a consequence, no notification is provided of potential native vegetation impacts on roadsides, with operators considering themselves exempt from the requirements of the Planning Scheme. Councils therefore have limited (if any) ability to know of native vegetation losses and whether the losses are truly exempt under 52.17 or if, in reality, the vegetation removal requires a planning permit. The THP template requires modification and clear directions are required in the exemptions within the VPPs to consider specific issues that may still require a permit.
- The BPN requests that the proposed guidance material also includes a checklist for consideration under Clause 52.17 (and Clause 52.48?), the *Flora and Fauna Guarantee Act 1988* and the *Environmental Protection and Biodiversity Conservation Act 1999*. This will ensure people seeking to remove native vegetation under Cl. 52.17 exemption(s) do not inadvertently breach other environmental regulations while exercising an exemption under Cl. 52.17.

- The BPN identifies there is a critical need for advice for FFG Act and EPBC Act non-exempt vegetation.
- Guidance needs to be incorporated in the VPPs. Guidance could be included in the Biodiversity Assessment Handbook, so it is within an already-incorporated document. The Biodiversity Assessment Handbook could be extended to include a specific chapter on exemptions.

24. Adopt a consistent approach to Agreements referenced in the exemptions

- The BPN is supportive of this proposed improvement but welcomes more information on how a consistent approach to Agreements referenced in the exemptions will be adopted.
- The BPN considers that good policy would negate the need for MoUs – and exemptions, etc. and should be sufficient to cover all relevant authorities, and assist with transparency in process and reporting.
- A detailed review of the existing exemptions is required, to assess what is working and what is not. The findings of the review would provide a solid basis for guidelines to developing agreements referenced in the exemptions in the future.

25. Develop a compliance and enforcement strategy

- The BPN strongly advocates the need for the State to develop a compliance and enforcement strategy relating to the implementation of Cl. 52.17.
- We recommend the *Planning and Environment Act 1987* (P&E Act) be amended to allow DELWP officers to be authorised officers for the purposes of enforcing compliance under Clauses 52.16 and 52.17 on private property.
- The compliance and enforcement strategy needs to ensure DELWP have capacity and ability to pay for consultant's reports and be expert witness, as required.
- The BPN recognises there is a critical need for increased leadership from DELWP relating to compliance and enforcement of Cl. 52.17. In particular:
 - o More enforcement/enforcement support and advice is required on the ground in priority areas.
 - o Monitoring compliance and investigating enforcement issues via use of aerial or satellite imagery and/or remote sensing.
 - o It is critical that standards are developed to assist Local Governments and DELWP to enforce rehabilitation post-unpermitted clearing. There should be some ability for the Responsible Authority to consider each unpermitted clearing site on a case by case basis.
- There is a critical need to address serious issues in the system where it is cheaper to pay Planning Infringement Notice(s) (PINs) than it is to be compliant with a planning permit, including for applications involving the removal of native vegetation under Cl. 52.17. The BPN strongly recommends that PINs/fines need to increase significantly to act as an adequate deterrent and encourage compliance.

- The BPN requests urgent clarification as to the Department's position on retrospective planning applications for vegetation removal: whether the modelled data can be used to calculate vegetation loss (as has been supported in recent times) or if retrospective permits for vegetation removal cannot be granted. Historically, the Department's approach to retrospective applications for vegetation removal has been that retrospective applications are not valid as there is no ability for the permitting authority to refuse vegetation clearance after the event. Clearly, vegetation removed can never be properly reinstated. Critically, however, offsets cannot be required for the vegetation removal if a (retrospective) permit is not issued, thus biodiversity impacts cannot be redressed. This issue is complex and unclear for municipalities in the absence of guidance from the Department, particularly for Councils that are not well-resourced with compliance/enforcement staff.

26. Provide guidance and support materials for compliance and enforcement activities

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved.
- It is vital that funding is provided for additional DELWP staff and resources to enable provision of guidance and support materials for compliance and enforcement activities. Currently, there is a critical shortage of guidance and support for Local Government which is responsible for implementing compliance and enforcement activities under Cl. 52.17. It is recommended that training is provided to Local Government compliance/enforcement staff, with dedicated support resource staff at DELWP.
- Adequate guidance, support and training for Local Government compliance/enforcement staff is critical to the success of the Native Vegetation Clearing Regulations. The BPN request that this proposed improvement is implemented immediately.

27. Improve information gathering for compliance and enforcement

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved.
- The BPN requests the State to fund a specific Native Vegetation Enforcement Team within DELWP that is responsible for planning investigations relating to Cl. 52.17 and supporting Local Government in VCAT and the Magistrates Court, evidence gathering, public forums and submitting public notices on convictions relating to native vegetation enforcement to increase awareness of penalties associated with illegal native vegetation removal.
- Dedicated (authorised) DELWP Enforcement Officers are required to provide consistent training to Local Government authorised officers on how to gather evidence and prepare for enforcement action in a replicable manner, to improve enforcement – and compliance - outcomes.

28. Promote co-regulatory support

- The BPN is supportive of this proposed improvement but welcomes more information on how this will be achieved.
- This proposed improvement offers the opportunity to improve the interaction between Cl. 52.17, the FFG Act and the EPBC Act.
- Transparency is key to this support, given the impacts of native vegetation cleared under the exemptions on public land (as discussed above) – clarity of the exemptions and some regulation of the extent of vegetation clearance would provide transparency.

29. Review the overarching compliance and enforcement framework

- The BPN is supportive of this proposed improvement and welcomes a review of the overarching compliance and enforcement framework.
- It is critical that PINs/fines must be commensurate with the extent and condition of native vegetation that has been illegally cleared.
- The BPN considers it must be a mandatory requirement that vegetation cleared illegally is rehabilitated to the condition and extent of the vegetation prior to illegal clearing.
- The BPN requests that the Compliance and Enforcement Reference Group that was set up during the introduction of the *Permitted Clearing Guidelines* be reinvigorated to continue with the work that was commenced. Local Government representatives on this reference group included James Booth (Whittlesea), Errin Smitka (Yarra Ranges) and others.