

Port Phillip & Westernport CMA overview of the project:

Assessing the Effectiveness of Local
Government Planning Scheme Controls
in Protecting Native Vegetation in the
Port Phillip & Western Port Region

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Port Phillip and Westernport CMA, 454-472 Nepean Highway, Frankston Vic 3199 Phone: 03 8781 7900
www.ppwcm.vic.gov.au

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Port Phillip & Westernport CMA overview of the project

Assessing the effectiveness of local government planning scheme controls in protecting native vegetation in the Port Phillip & Western Port Region

Background

In 2007, the Municipal Association of Victoria (MAV) applied to the Australian Government's Natural Heritage Trust (NHT) for funding to assess the application of planning scheme controls by local governments and other authorities relevant to native vegetation retention, protection and clearing. A project was funded for an investigation in the Port Phillip and Western Port region. The Port Phillip and Westernport Catchment Management Authority (PPWCMA) subsequently managed the project and a Steering Committee with representatives from the PPWCMA, MAV, Department of Sustainability and Environment (DSE) and the Australian Government helped plan, direct and oversee its delivery.

The project's aims were:

- Assessing the effectiveness of the planning scheme controls across the region in respect to vegetation protection;
- Examining and identifying how planning scheme provisions are addressing the issue of the removal of native vegetation in some local government areas; and
- Assessing the relevance and robustness of these planning scheme provisions and controls when effectively applied.

A consultant team, which comprised of personnel from Parsons-Brinkerhoff Australia Pty Ltd, RMIT University and La Trobe University, was engaged to conduct the project. Their tasks included:

- Mapping and analysis of the planning provisions relating to vegetation applied by all local governments in their planning schemes across the region;
- Case study analyses of fifty planning permit applications for native vegetation clearance and other planning matters relevant to vegetation management at five local governments;
- Mapping and analysis of the extent and quality of vegetation coverage across the region; and
- Analysis of relevant decisions subject to review at the Victorian Civil and Administrative Tribunal (VCAT).

The consultants' final report, 'Assessing the effectiveness of local government planning scheme controls in protecting native vegetation in the Port Phillip & Western Port Region', is available at the PPWCMA website (www.ppwcm.vic.gov.au).

Key findings

The consultants' final report outlines numerous findings and makes 15 recommendations. The PPWCMA considers the following findings from the report are particularly significant and the implementation of three particular recommendations is especially important and would provide substantial benefits for the management of native vegetation.

Current state of native vegetation

The following points highlighted some important aspects of the current state of the region's native vegetation:

- Approximately 61% of vegetation in the region has been cleared.
- Some ecological vegetation classes have been completely eliminated, and numerous vegetation classes have been reduced to less than 10% of their original extent.
- Important areas of threatened (Endangered, Vulnerable or Depleted) vegetation types occur across the region. Some local government areas have extensive patches of Endangered vegetation as shown in Tables 1 and 2.
- A significant proportion of threatened vegetation occurs outside of the reserve system in the region; ie. 79% of Endangered vegetation exists on private land.
- In the period from 1989 to 2005, it is estimated that a net loss of over 7,000 hectares of native vegetation occurred in the region, including over 6,000 hectares of threatened vegetation types (over 3,000 hectares of which was Endangered grassland).
- Based on the most recently available data from DSE, there appears to be a continuing loss of native vegetation in the region and it is highly unlikely that net gain is being achieved.

The project found that there are 93,955 ha of native vegetation classified as Endangered in the region. Of that total, over 70,000 ha is found in just ten local government areas; Wyndham, Melton, Moorabool, Yarra Ranges, Hume, Mornington Peninsula, Cardinia, Whittlesea, Baw Baw and Macedon Ranges.

It is noteworthy that in 16 local government areas the proportion classified as Endangered represents over 75% of the remaining vegetation.

Policy and planning tools.

The report proposes that local governments need to be able to draw upon a suitable and relevant set of zones and overlays supplied in the Victoria Planning Provisions (VPP) so as to reflect the extent, significance and quality of native vegetation in their municipality.

In terms of overlays, the seemingly most appropriate overlay is the Vegetation Protection Overlay (VPO) because it specifically only relates to vegetation. However, the Environmental Significance Overlay (ESO) is commonly used instead because it can encompass a wider range of elements that are frequently associated with vegetation management.

The project found that all 38 local governments across the region have recognised the importance of native vegetation in their planning scheme and most have applied some zones and particularly overlays from the VPP to recognise areas of native vegetation.

However, the project also found that (a) the region's vegetated areas are inadequately represented in zones and overlays and (b) the relevant zones and overlays have generally not been appropriately or adequately applied in many municipalities. In many instances the most significant vegetation in some municipalities has no or very modest protection through planning provisions, as shown in Table 2 and Figure.1. Many areas of native vegetation of relatively low significance are much better recognised and protected in terms of the planning scheme provisions than areas of high value.

The project found that:

- The most obvious recognition of vegetation extent through the use of Overlays or the Rural Conservation Zone (RCZ) occurred in the Yarra Ranges, Nillumbik, Mornington Peninsula, Macedon Ranges, Manningham and Moorabool local government areas. It is particularly worth noting that 56% of the region's Endangered native vegetation is not covered by any type of zone or overlay.
- The VPO is specifically designed to protect vegetation but is relatively infrequently utilised by local governments in the region. Nineteen of the 42 local governments have chosen not to use the VPO. It has been applied to less than 5% of Endangered vegetation and less than 10% of Vulnerable vegetation in the region. This suggests there is little relationship between the conservation status of the vegetation and the application of Overlays.
- Conversely the use of Significant Landscape Overlays (SLO) is more common than expected. Some local governments appear to have used this type of Overlay to protect highly threatened vegetation, a purpose for which it was not intended.
- The application of provisions in planning schemes that recognise and seek to implement protection for mapped and known areas of vegetation is not consistent. There is little likelihood that the current planning scheme provisions adequately correspond to mapped information in all but a handful of local governments. Even allowing for some methodological issues and data shortfall, it is evident that there are large areas with important native vegetation that have no specific planning provision that recognises the vegetation.
- It is evident that the use of the relevant overlays (VPO and ESO) or the application of the RCZ is no guarantee that vegetation will be retained. However it is evident that where there are no specific provisions relating to vegetation, the losses have been substantial.
- It is apparent from the range of provisions in the planning schemes across the region that there has not been a consistent process for (i) the provision of relevant information by DSE, (ii) the application of vegetation mapping information by local governments and (iii) the approval of schemes and amendments by the Department of Planning and Community Development (DPCD).

In regard to zoning, the report suggests that the most relevant is the Rural Conservation Zone (RCZ). However, this designation lacks an equivalent zone in urban areas. To date, local governments that have sought to apply the RCZ as a means of seeking to protect native vegetation in urban areas have been instructed that it is not to be applied in urban areas. As there is no equivalent Urban Conservation Zone, it means that local governments have to rely upon overlays imposed on zones that implement development incompatible with vegetation protection. This means that, short of purchase of land or designation as National Park or permanent reservation, all vegetation in urban areas has limited protection. Based on DSE and local government experience and the outcomes from some VCAT cases, the most effective native vegetation protection method in an urban area is the application of the ESO in association with a native vegetation precinct plan. However these are resource intensive and still do not provide certainty in terms of retention of vegetation.

The report also suggests there are clearly different levels of capacity within and between local governments in regard to resources, information and the implementation of planning tools. The 'burden' of implementing the Framework has fallen disproportionately on local governments depending on the extent and quality of native vegetation that they have inherited.

Commitment and monitoring

Based on the evaluation of fifty planning permits from 5 case study local governments across the region, the project found that:

- The first two steps in the Framework, avoid and then minimise, are often not applied in the planning permit application process. Instead, the majority of applicants approach the issue of native vegetation removal from the perspective of 'how can I offset the vegetation?'. In only a minority of cases did an applicant set out the three step process prior to proposing the offset. In the majority of cases the documentation to demonstrate a process of avoid, then minimise, and then offset is lodged after the initial application. This was typically the case with large-scale development proposals.
- While local governments and DSE have devoted and are required to allocate extensive resources to the processing of and decision making on permits, there are often few resources or processes in place to ensure implementation of the permit requirements. Local government officers noted that most permits issued for vegetation clearance which includes specific conditions relating to management and offset subsequently had some level of non-compliance. For example, only part of the offset is completed. It was also reported by local governments that trees and other vegetation that are to be retained as part of the conditions on a permit are often removed, fail to survive works that are undertaken on the site or simply cannot regenerate.
- There is no central, publicly-available monitoring system in respect to the various stages in the native vegetation clearance process. At the time of writing the report, the consultants were aware of a permit tracking database being implemented for DSE-referred clearing permits to be viewed by DSE staff. While this would be a good first step, the report suggests that a comprehensive permit and offset tracking system capturing all local government-processed applications is required.

Table 1. Area and proportion of native vegetation remaining in each local government area of this region and the area and proportion classified as Endangered (modified from the consultant's final report).

Local Government Area	Original area of native vegetation (ha)	Current area of native vegetation (ha)	Proportion of original area remaining	Area of existing vegetation classified as Endangered (ha)	Proportion of existing vegetation classified as Endangered
Wyndham	54,083	14,174	26%	13,505	95%
Melton	52,782	11,547	22%	9,100	79%
Moorabool	116,844	61,309	52%	9,075	15%
Yarra Ranges	218,132	165,008	76%	8,170	5%
Hume	50,354	8,121	16%	7,080	87%
Mornington Peninsula	71,849	20,043	28%	6,634	33%
Cardinia	128,220	45,007	35%	5,482	12%
Whittlesea	48,721	16,209	33%	4,672	29%
Baw Baw	70,192	27,136	39%	4,350	16%
Macedon Ranges	99,782	35,009	35%	4,248	12%
Greater Geelong	25,071	7,851	31%	3,069	39%
Casey	39,338	6,026	15%	2,835	47%
Bass Coast	40,965	8,830	22%	2,823	32%
Nillumbik	43,209	28,629	66%	1,995	7%
South Gippsland	26,421	4,923	19%	1,713	35%
Brimbank	12,342	1,358	11%	1,358	100%
French Island	16,959	12,463	73%	1,129	9%
Frankston	12,952	2,890	22%	1,034	36%
Mitchell	24,004	8,917	37%	789	9%
Knox	11,386	1,842	16%	788	43%
Greater Dandenong	12,958	635	5%	606	95%
Manningham	11,331	4,604	41%	571	12%
Banyule	6,259	791	13%	514	65%
Kingston	9,133	464	5%	347	75%
Hobsons Bay	6,399	864	14%	328	38%
Boroondara	6,022	312	5%	295	95%
Maroondah	6,140	361	6%	252	70%
Monash	8,150	244	3%	241	99%
Yarra	1,955	222	11%	222	100%
Golden Plains	258	246	95%	177	72%
Whitehorse	6,427	182	3%	167	92%
Moonee Valley	4,427	90	2%	90	100%
Darebin	5,347	83	2%	77	93%
Melbourne	3,389	144	4%	63	44%
Docklands	237	50	21%	46	92%
Port Phillip	2,040	57	3%	39	68%
Maribyrnong	3,125	35	1%	35	100%
Moreland	5,103	16	0%	16	100%
Stonnington	2,563	8	0%	8	100%
Bayside	3,698	70	2%	7	10%
Glen Eira	3,869	5	0%	3	60%
Murrindindi	2,994	2,181	73%	2	0%
Hepburn	1,712	1,154	67%	-	0%
Total	1,277,142	500,110	38%	93,955	20%

Table 2. Area of each classification of native vegetation remaining in each local government area (modified from consultant's report).

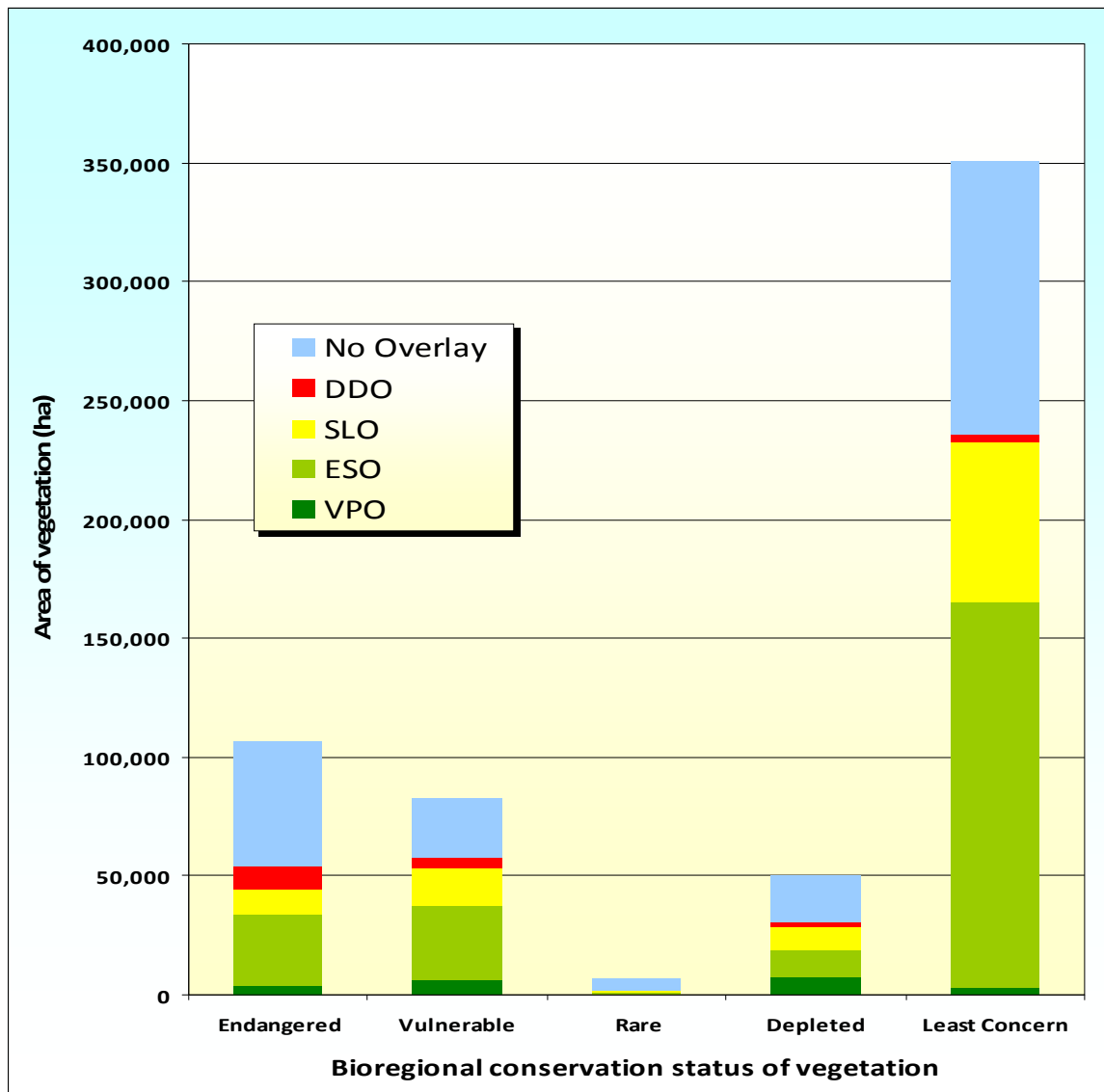
Local Government Area	Extent of native vegetation (Ha)					
	Endangered	Vulnerable	Rare	Depleted	Least Concern	Total
Wyndham	13,505	669	0	0	0	14,174
Melton	9,100	1,108	0	837	502	11,547
Moorabool	9,075	7,578	0	4,488	40,169	61,309
Yarra Ranges	8,170	8,085	7	1,851	146,895	165,008
Hume	7,080	1,025	0	16	0	8,121
Mornington Peninsula	6,634	11,712	77	853	767	20,043
Cardinia	5,482	4,078	0	6,693	28,754	45,007
Whittlesea	4,672	1,309	0	293	9,936	16,209
Baw Baw	4,350	2,799	1	868	19,119	27,136
Macedon Ranges	4,248	7,769	0	12,453	10,539	35,009
Greater Geelong	3,069	1,472	0	1,292	2,018	7,851
Casey	2,835	643	0	138	2,410	6,026
Bass Coast	2,823	4,073	124	690	1,121	8,830
Nillumbik	1,995	8,215	0	176	18,243	28,629
South Gippsland	1,713	1,446	0	930	834	4,923
Brimbank	1,358	0	0	0	0	1,358
French Island	1,129	617	5,770	2,527	2,420	12,463
Frankston	1,034	158	107	14	1,578	2,890
Mitchell	789	973	0	3,866	3,289	8,917
Knox	788	714	0	2	337	1,842
Greater Dandenong	606	26	0	0	3	635
Manningham	571	1,781	0	0	2,252	4,604
Banyule	514	75	0	0	202	791
Kingston	347	87	0	9	22	464
Hobsons Bay	328	531	0	0	5	864
Boroondara	295	14	0	3	0	312
Maroondah	252	54	0	0	54	361
Monash	241	3	0	0	0	244
Yarra	222	0	0	0	0	222
Golden Plains	177	0	0	7	61	246
Whitehorse	167	15	0	0	0	182
Moonee Valley	90	0	0	0	0	90
Darebin	77	0	0	0	6	83
Melbourne	63	74	2	0	5	144
Docklands	46	0	2	0	2	50
Port Phillip	39	7	10	0	0	57
Maribyrnong	35	0	0	0	0	35
Moreland	16	0	0	0	0	16
Stonnington	8	0	0	0	0	8
Bayside	7	56	0	0	7	70
Glen Eira	3	0	0	0	1	5
Murrindindi	2	2	0	33	2,144	2,181
Hepburn	0	0	0	323	832	1,154
Total	93,955	67,168	6,100	38,362	294,527	500,110

Table 3: Areas of vegetation covered by relevant Planning Scheme Overlays (modified from the consultant's final report)

	Bioregional significance of vegetation				
	Endangered	Vulnerable	Rare	Depleted	Least Concern
Total remaining vegetation (Ha)	93,955	67,168	6,100	38,362	294,527
Area covered by VPO (Ha)	3,953 (4%)	6,054 (9%)	31 (0.5%)	7,289 (19%)	2,945 (1%)
Area covered by ESO (Ha)	29,830 (32%)	31,569 (47%)	647 (11%)	11,125 (29%)	161,990 (55%)
Area covered by SLO (Ha)	10,834 (12%)	15,449 (23%)	1,055 (17%)	10,358 (27%)	67,741 (23%)
Area covered by DDO (Ha)	9,473 (10%)	4,702 (7%)	0 (0%)	2,302 (6%)	2,945 (1%)
Area covered by no overlay (Ha)	52,615 (56%)	24,852 (37%)	4,819 (79%)	19,181 (50%)	114,866 (39%)

Note: The total areas and percentages for each vegetation classification add to more than 100% because some areas of vegetation are covered by more than one overlay.

Figure 1. Areas of vegetation covered by relevant Planning Scheme Overlays (modification from the consultant's final report).



Note: The areas in each column add to more than the actual area of existing vegetation because some areas of vegetation are covered by more than one overlay.

Key recommendations

The PPWCMA supports all of the recommendations in the consultants' report. The PPWCMA particularly supports implementation of the following three recommendations as a priority:

1. DPCD initiates a review of the capacity of the types of zones and overlays available to implement the Framework in the region including:
 - the development and implementation of a 'template' to enable a comprehensive set of amendments to be made to current planning schemes to apply relevant Overlays to reflect up-to-date native vegetation information; and
 - giving explicit consideration to the use and application of an 'Urban Conservation Zone'.
2. The Minister for Planning direct local governments to update their planning schemes using the most recent native vegetation data in conjunction with provision of training/assistance tailored to the needs of local governments.
3. DSE and DPCD establish a record of all applications for native vegetation removal across the region, the outcomes of the applications, and a register of the offsets.

Notes



Port Phillip and Westernport CMA
Landmark Corporate Centre
Level 1, 454-472 Nepean Highway
Frankston Vic 3199
Ph: 03 8781 7900
Fx: 03 9781 0199
E: enquiries@ppwcma.vic.gov.au

www.ppwcma.vic.gov.au