



Victorian  
Farmers  
Federation

# SUBMISSION

## Bushfire Planning made clearer: Options for Victoria's Planning System

11 February 2022

## EXECUTIVE SUMMARY

The Victorian Farmers Federation is the peak body representing Victorian agriculture. VFF is concerned that although the Victorian Planning System applies to all land in Victoria the administration of the planning system has become increasingly urban, despite the rural suite of zones being the predominant land use type by area in Victoria.

Our emergency management system is built around the concept of protection of life and property. Property includes four aspects: principal residences; means of earning and income; key infrastructure; and the environment. The objectives of Planning in Victoria (s4 of the Act) include providing a safe living and working environment. Farms are workplaces places of residence. It is perplexing that specific planning provisions regarding bushfire safety not only focus on dwellings, but often exclude farm dwellings.

This may be due to Department of Environment, Land, Water and Planning's (DELWP) fire models using a dwelling for both calculating risk to life and to property. The need to simplify for modelling should not then mean that non modelled risks are ignore when primacy of life is a stated objective.

### Urban bias

VFF in response to the GWAL project discussed a form of urban bias in the planning system. DELWP has acknowledged failures in its model and the need to better understand agricultural risks. DELWP Planning is aware of concerns regarding urban bias. It is surprising that the options paper has not considered these issues.

It is fact that non dwelling impacts are under recorded in emergencies. They are rarely planned for in 'preparedness'. Planning applies to all land and planning provisions should consider risk to life and property present in all land uses. By not understanding that there are many other impacts outside of dwellings even the recovery provisions focus on the reconstruction of dwellings.

### What does life and property mean to a farmer?

If you are a farmer affected by bushfire, you may have lost your place of residence as well as your means of earning an income. It can take decades until production has recovered to pre fire levels.

Fires can destroy crops, fodder, livestock, genetics, machinery, and fences. The loss of machinery means the inability to farm – yet a machinery shed, while being 'property', is not protected in fire plans or 10/30 style rules.

If fences are taken out by wildfire or establishing control lines, stock are no longer contained on site and little is done to recover stock, or ensure stock is made safe before cutting fences to establish control lines which used to be provided for on crown land. Vegetation is often removed along fence lines by responders as it is deemed unsafe, yet farmers cannot get contractors to rebuild fences as native vegetation permits are not issued and the work site is deemed as unsafe. There is a different set of 'safety' rules applying to public servants.

In some instance it has taken 2 years to get a planning permit to reinstate a boundary fence post fire. This means 2 years until stock can be returned and 3 years for an income to be earned. These aspects are not considered in recovery provision.

It is clear to our members that there is an unintentional urban bias in relation to agriculture. This is most obvious in the failure of the planning system in relation to bushfire planning controls in non urban zones.

### Does the paper respond to its terms of reference?

VFF agrees the scope of the work is appropriate. The failure to take a first principles / objectives of planning approach to the terms of reference reinforces the perception that farming land is not seen as productive land that is a key economic driver for Victoria but vacant land.

VFF is concerned that this review is relying on an IGEM report (Review into the 2019-2020 Victorian fire season by the Inspector-General for Emergency Management) where the terms of reference excluded consideration of agricultural impacts. Farming is the predominate private land category impacted by farming. The DELWP modelling system (life and property) is wholly based on a dwelling as an indicator for both life and property. As this model does not deliver the six C's of emergency management it is incumbent upon the planning system to ensure that it thinks beyond a dwelling.

### How can DELWP Planning better understand the role of the planning provisions in relation to protection of life and property?

VFF believes that recovery and rebuilding give you an insight into how to avoid and minimise the need to recover or rebuild.

VFF believes that a state bushfire planning policy can only be more useable if it understands all aspects of life and property and ensures the objectives of Planning in Victoria are applied equally to all land use types.

Better bushfire hazard assessments also need to not wholly focus on dwellings. Landscape fire has the greatest impact on farmland. The current system often sees the farmland as collateral damage. We do not believe a farm is a consequence free staging ground to protect urban areas.

Controls lines mean removal of fences, back burning of fodder and crops, dozing of pasture and crops. The planning system needs to ensure that not only is hazard reduction being undertaken on public land, but that farmers are able to manage risk to the life and livelihood on their land.

VFF believes that if the tree controls and other non structural aspects are 'development' under the Act then clearer planning requirements for developing land in bushfire prone areas should if not facilitate, at least allow the consideration of safety, in all provisions requiring a planning permit to undertake fuel management / safety works. The current scenario of greater protection to the life of a public servant over a landholder is not reflective of primacy of life.

Similarly, although there may be a need to improve planning permit conditions for bushfire protection measures there is a need to be fewer and more streamlined permits to undertake bushfire protection measures. Training and capability building is critical in relation to understanding the six C's in relation to all aspects of life and property, including farmers, livestock and crops.

VFF is concerned that primacy of life is not delivered by the planning system. That the system is placing higher values on urban life (residual risk model) and public sector lives (52.17). This is reinforced by the discussion of community expectations in relation to clearance rules. How was this 'expectation' determined? We believe from observation that many communities have a different expectation, especially in fire years. VFF would be interested to see the results of any professionally undertaken survey that establishes the communities' position in relation to fuel load management vs public safety / primacy of life.

It is 32 years since a regulatory impact or Panel process considered native vegetation controls in relation to the head of power in the Act. There has been little reference to the principles established in the 1990 assessment in the reviews since, or a first principle review of controls meeting the objectives of planning

rather than a view expressed by members of the community without consideration of the statutory context.

VFF will build upon these themes to discuss how the planning system can better reflect the objectives of planning in Victoria and the State Emergency Management priorities. VFF has submitted to the Department and the Minister over many years on these matters. We are seen as a key stakeholder by Forest Fire Management Victoria and believe we must be a key stakeholder in the Planning portfolio.

VFF is happy to provide examples as to how the VPPs SMARTer in relation to protection of life and property on agricultural land.

## OUR POSITION

### VFF approach

VFF has a long history in representing agricultural land in emergency management. We have submitted to every DELWP emergency management strategy, have included emergency management considerations in budget and election advocacy, including briefing planning advisors in opportunities to improve recovery. Previous materials are attached.

VFF has traditionally had a recovery role in the Emergency Management Structure. In reality we believe recovery should not be our focus. To borrow terms understood by planners - VFF believe the best way to recover and rebuild is to avoid the need to do so in the first place, and then minimise the consequences where it cannot be avoided.

Unlike the native vegetation framework there is no 'offset' with penalties to ensure net gain for farmers. There is the opposite. Even when the damage to your property has been at the hand of the State (not a wildfire) you are not compensate for the damage, let alone the compounding impact that has on your property. At best you get a contribution to refencing.

This is important to understand as not only is farmland where you live – it is where you earn an income. If you lose your house, your fences, your fodder and your crops/machinery or livestock/machinery you forgo not only an income but incur a loss that may take multiple years to recover from. We believe it is only fair that the planning system assist you protect your life and property rather than make it close to impossible to do as the objective of a safe working environment is not delivered through the planning provisions.

To assist DELWP Planning in understanding these issues we have attached the VFF's avoid – minimise – support points that relate to the six C's of emergency management that are a key tool for DELWP Planning to understand planning systems role all aspects of life and property.

## 6 C's – how apply to rural zones

Victoria has recently changed its approach to Emergency Management. Currently there is consultation on the *Review of the Victorian Preparedness Framework and Goal*. It is concerning that the consultation document does not reflect or consider the new framework as planning is often a key aspect of a preparedness framework.

Emergency Management Victoria in describing the move from three C's to six C's highlight the opportunities that should underpin the consultation document.

*Understanding the impact of an emergency, the consequences of the impact and how we reach in and acknowledge the community connections before during and after an emergency is vital to building a sustainable emergency management system and one that recognises the central tenets of wellbeing, liveability, sustainability and viability for communities.*

*This approach is supported by the State Emergency Management Priorities which include "primacy of life" and issuing of information and warnings to communities as non-negotiables and a focus on protection of property, infrastructure, economics and environment assets and values.*

<p><b>Control</b> <i>The overall direction of response activities in an emergency, operating horizontally across agencies.</i></p>	Better reflection of all aspects of life and property in planning and decision support will help ensure control actions consider all consequences and benefits, including mitigation actions.
<p><b>Command</b> <i>The internal direction of personnel and resources of an agency, operating vertically within the agency.</i></p>	Resources of agency would include knowledge on land use and consequences.
<p><b>Coordination</b> <i>The bringing together of agencies and resources to ensure effective preparation for, response to and recovery from emergencies.</i></p>	Ensuring appropriate knowledge and tools in planning system to allow for preparation, response, and recovery from emergencies. For instance, fuel management, mineral earth breaks, stock containment, value of crops / machinery.
<p><b>Consequences</b> <i>The management of the effect of emergencies on individuals, the community, infrastructure and the environment.</i></p>	Relates to life and property. Individuals – farmers, livestock, crops, machinery etc – all considerations. Should a clear zone be provided to a machinery shed? A fence-line? How does loss of farm income hurt the wider community – volunteerism, commerce, manufacturing, investment in ecosystems? What if soil is damaged? Cannot be insured. How to understand risk – and consequences? How to avoid farming infrastructure?
<p><b>Communication</b> <i>The engagement and provision of information across agencies and proactively with the community to prepare for, respond to and recover from emergencies.</i></p>	Planning schemes and policy can assist in the provision of information on land use and likely consequences. The removal of agriculture from economic development (PPF) is leading to the loss of information about production in local areas, key land use issues, conflicts etc. Ensuring planning schemes can identify types of agriculture and threats to be managed to protect the industry is key to ensuring issues to be managed are communicated in all stages, and planning provisions include appropriate triggers, exemptions, decision guidelines or assessment support.
<p><b>Community Connection</b> <i>The understanding of and connecting with trusted networks, trusted leaders and all communities to support resilience and decision making.</i></p>	VFF is a trusted stakeholder in emergency management and planning. VFF is best placed to ensure this project considers how the planning system can ensure bushfire planning for rural areas and industries. We develop case studies that learn

	from events and how better planning could have avoided the scenario. We can provide advice on the drafting of provisions.
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### How existing bushfire planning policy is biased to urban areas.

The document refers to 4 state-wide provisions in relation to bushfire planning – Clauses 13.02-1S; 44.06; 53.02 and 52.12.<sup>1</sup> VFF believes these controls focus on dwellings and settlements. Other provisions that impact on creation of defensible space and management of fire risk, such as Clause 52.17 are not discussed. Nor are the relevant considerations outlined in the existing provisions.

- Clause 13.02-1S Bushfire planning – the clause does not apply to existing uses or development that need to manage bushfire hazards / ability to survive unmanaged bushfire hazards. Objective only gives protection of human life in ‘settlements. States that human life is a priority over all other policy considerations however this is not able to be considered in all relevant provisions. Bushfire Hazard considerations apply controls however the other considerations are not applied to agricultural land uses. Considering the risk of bushfire to people, property and community infrastructure is only linked to urban uses. Should be a key consideration underpinning all scheme content.
- Clause 44.06 Bushfire Management Overlay – is applied to land at the most extreme risk of bushfire. VFF supports the purpose of the overlay but questions whether the overlay fully delivers these considerations for farming uses. An example of areas for improvement include support for development in conjunction with existing land use and developments that manage risk to life and property from bushfire. A specific clause to facilitate the following purposes of the overlay should be created and referenced.
  - *To ensure that the development of land prioritises the protection of human life and strengthens community resilience to bushfire.*
  - *To identify areas where the bushfire hazard warrants bushfire protection measures to be implemented.*
  - *To ensure development is only permitted where the risk to life and property from bushfire can be reduced to an acceptable level.*

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- <sup>1</sup> *Clause 13.02-1S Bushfire planning – is the state planning policy. It applies to planning scheme amendments and permit applications if land is within a designated bushfire prone area<sup>1</sup>, subject to a Bushfire Management Overlay or proposed to be used or developed in a way that may create a bushfire hazard. It requires decisions to take bushfire hazard into consideration, assess the acceptability of additional risk and incorporate bushfire protection measures. New or expanding settlements are required to be directed to low-risk locations.*
  - *Clause 44.06 Bushfire Management Overlay – is applied to land at the most extreme risk of bushfire. It specifies the type of development under this overlay that requires a planning permit, application requirements and mandatory permit conditions. A purpose of this overlay is to ensure development is only permitted where the bushfire risk can be reduced to an acceptable level.*
  - *Clause 53.02 Bushfire Planning – sets out the bushfire protection measures for new development and decision guidelines for an application under the Bushfire Management Overlay. The measures vary according to contextual factors and often include defensible space, access, water supply and construction standard (Bushfire Attack Level). It is sometimes used to guide an application or planning scheme amendment in the bushfire prone area outside the Bushfire Management Overlay and planning scheme amendments.*
  - *Clause 52.12 Bushfire Protection: Exemptions – exempts the removal and lopping of vegetation to create defensible space. Notably, the provision contains the 10/30, 10/50 and fenceline clearance rules, and exempts some dwelling applications from the planning scheme native vegetation offset requirement.<sup>1</sup>*

- Clause 53.02 Bushfire Planning – this is the clause where the prevalence of urban bias is most clear. Of the 4 specific purposes 3 are primarily focused on built form triggers and the application is whose application primarily focuses on dwellings in urban areas. Should farm dwellings be protected. Or sheds? Should other development triggers that impact on bushfire risk management be designed to consider primacy of life and vulnerability to bushfire attack. Farms are workplaces. Crops, livestock, and machinery are property related to the primary purpose for which the land is zoned. Yet a safety zone around a machinery shed that gives shelter from radiant heat and contains \$16 million of machinery necessary to earn an income is not considered. Nor is vegetation management as part of property protection plans which are essential to managing risk to life and property.
- Clause 52.12 Bushfire Protection: Exemptions. Despite a purpose of *to facilitate the removal of vegetation in specified circumstances to support the protection of human life and property* from bushfire the exemptions only apply to accommodation. This is clear that the certain circumstances reinterpret not only the Emergency Management Act meaning of life and property, but S4(1)(c) *to secure a pleasant, efficient, and safe working, living and recreational environment for all Victorians and visitors to Victoria*

All discussion of issues within the paper focus on dwelling / urban only aspects of land use planning and development, even the discussion of the role of land use planning. Recent IGEM investigations have Terms of Reference that excluded agriculture impacts.

VC140 is not a solution for agriculture. It is a settlement planning framework. There is an urgent need to consider nonurban uses. It is likely that similar issues but with different applications will arise.

- landscape bushfire considerations – how to ensure fuel load reduction to protect life and property
- alternative locations for development – need for streamlined development pathways for fuel load reduction as part of a property protection plan
- availability of safe areas in the neighbourhood – ensuring fuel management around fence lines, stock containment areas, sheds.
- site based exposure and setbacks to bushfire hazards – consideration for clauses such as 52.17 that require a permit for fuel load management but do not allow the consideration of primacy of life.
- biodiversity conservation value – including on private land
- no net increase in risk – to existing land use and development – including farming.

### Response to the engagement document – key areas for urgent action

<p><a href="#">1 – INTRODUCTION</a> ..... <b>Error! Bookmark not defined.</b></p>	<p>The failure to identify VFF has a key stakeholder may stem from a focus on existing content or the IGEM report (terms of reference excluded agriculture). A first principles approach would see this issue being scoped from the relevant objectives of Planning in Victoria and the key aspects of Emergency Management legislation and procedures. VFF believes the recovery provisions should also be included. For example 52.10 purports to be wider than ‘dwellings’ but only facilitates rebuilding of dwellings. Sheds, dairies and even fences are critical to recovery. They are issues that can be very complicated and inability to rebuild a fence – or a dairy means inability to use the land for farming or earn an income.</p>
<p><a href="#">2.1 Bushfire planning provisions</a>.. <b>Error! Bookmark not defined.</b></p>	<p>See previous commentary.</p>

<p><a href="#">2.2 The development of the bushfire planning provisions</a> .....<b>Error! Bookmark not defined.</b></p>	<p>See previous commentary.</p>
<p><a href="#">2.3 Recent bushfire inquiries</a> .....<b>Error! Bookmark not defined.</b></p>	<p>VFF submitted to the Natural Disasters Royal Commission and was one of 2 farming organisations to be summonsed to provide evidence. The Comissioners focused on issues relating to ability to manage risk. The VFF submission has been provided to DELWP previously, and is attached to this submission. As is our IGEM submission. Although outside the terms of reference the commentary around ‘consequence’ includes the issues raised in this submission. Our IGEM submission has been provided to DELWP previously, and is attached to this submission.</p>
<p><a href="#">2.4 A growing and changing state ....</a><b>Error! Bookmark not defined.</b></p>	<p>This section seems only to care about new residents and settlement planning. Climate change and landscape level risk also impacts on farmers and farming. Farmers should be allowed to manage risk and use technology to adapt to climate change or implement more sustainable practices. A planning system that allows VCAT to call this ‘convenient’ should be questioned. Supporting existing uses and industries to become more productive and sustainable should be included.</p>
<p><a href="#">3.1 A revised structure for settlement planning strategies...</a> <b>Error! Bookmark not defined.</b></p>	<p>Focusing on settlements as only focus ignores non urban life and property.</p>
<p><a href="#">3.2 Clearer strategies to guide decision making.</a> <b>Error! Bookmark not defined.</b></p>	<p>3.2.2 needs to be clear that just not about houses – other places need low fuel etc 3.2.3 Describing low fuel areas – needs to flip to what is needed in farming areas – how is it a consideration in 52.17 <b>1.1.1 3.2.4 Describing development setbacks from bushfire hazards – should also apply to farms – ensure they can make stock containment, sheds. To property etc safe. Embed in decision guidelines and Public Land Management standards. (refer to VFF Good Neighbour Policy)</b> <b>1.1.2 3.2.5 Clarifying when strategies are to be applied. How the strategies relate to farming. How Act objectives and decisions that balance social, economic, and environmental decisions are achieved by the provisions.</b></p>
<p><a href="#">3.3 Better managing bushfire setbacks in strategic plans and planning scheme amendments</a> ..... <b>Error! Bookmark not defined.</b></p>	<p>Still only to dwellings – needs to deliver objective of planning as well as SEMP.</p>
<p><a href="#">4.1 Relationship with the Bushfire Management Overlay</a> <b>Error! Bookmark not defined.</b></p>	<p>Needs a wider application (see previous discussion)– ie reason why some development permits should be granted – or proper safety or 10/30 considerations.</p>



<p><a href="#">4.2 Use, development and subdivision that require consideration in the bushfire prone area</a>. <b>Error! Bookmark not defined.</b></p>	<p>Needs a wider application (see previous discussion)– ie reason why some development permits should be granted – or proper safety or 10/30 considerations.</p>
<p><a href="#">5.1 Improved bushfire hazard site assessments</a> .....<b>Error! Bookmark not defined.</b></p>	<p>Broaden to areas where fire risk should be a consideration supporting a permit being exempted – or issued. Allow people to implement fire plans / protect life and property not related to a dwelling.</p>
<p><a href="#">5.2 More meaningful bushfire hazard landscape assessments</a> ..... <b>Error! Bookmark not defined.</b></p>	<p>Broaden to areas where fire risk should be a consideration supporting a permit being exempted – or issued. Allow people to implement fire plans / protect life and property not related to a dwelling.. Identify areas / values to be ‘protected’ in fire models.</p>
<p><a href="#">6.1 Application pathways</a> .....<b>Error! Bookmark not defined.</b></p>	<p>Need a pathway for life and property in farming areas. See VFF’s proposed solutions.</p>
<p><a href="#">6.2 Use as a permit trigger in the BMO ....</a> <b>Error! Bookmark not defined.</b></p>	<p>See previous content and VFF proposed solutions.</p>
<p><a href="#">6.3 Uses where buildings are not proposed</a>..... <b>Error! Bookmark not defined.</b></p>	<p>Does not mention farming at all – or how non structural S1 uses might need planning system help to allow them to manage risk, protect property and life.</p>
<p><a href="#">6.4 Use of VicSmart for bushfire decisions</a>..... <b>Error! Bookmark not defined.</b></p>	<p>No VicSmart for Farming Zone. No VicSmart or 10/30 for veg removal for fencelines, sheds, SCA etc.</p>
<p><a href="#">6.5 Updating the bushfire particular provision to reflect more recent state planning policy</a>... <b>Error! Bookmark not defined.</b></p>	<p>The Policy needs to be revised first to not purely respond to dwellings only. Objectives of Planning and Environment Act and SEMP life and property must be reflected in policy first – and then flow through all provisions.</p>
<p><a href="#">7 - PERMIT EXEMPTIONS FOR MANAGING VEGETATION</a> ..... <b>Error! Bookmark not defined.</b></p>	<p>Believes that the 10/30 rule achieves this. Urban bias. Nothing in there about farm sheds, crops, stock containment areas etc.</p>
<p><a href="#">8.1 Context</a> <b>Error! Bookmark not defined.</b></p>	<p>Focus is on dwellings. No consideration of other life / property issues.</p>
<p><a href="#">8.2 Current approach to compliance and enforcement</a>..... <b>Error! Bookmark not defined.</b></p>	<p><i>A further dilemma is that many communities value the treed environment. This may make compliance a sensitive and complex matter.</i> Should this quote be in a document about primacy of life? It may explain the failure to consider farmers safety in the wider planning system. If this is a concern for vegetation management around dwellings, it is little wonder that permits are refused to lop dangerous trees on a fenceline yet 6 months later in response to a fire those trees are removed as being dangerous to FFMV staff. Is the planning system really OK with a farmers life to be at risk every day from unsafe vegetation but not for an agency member? The Native Vegetation Stakeholder Forum often bemoans the use of the Secretaries powers to make roadsides safe. VFF supports</p>

	the primacy of life and it must be offered to all parties by allowing safety as a consideration in development triggers.
<a href="#">8.3 The critical stages of compliance</a> <b>Error! Bookmark not defined.</b>	Fire seaso / notices is a concern if not clarified. Hume issued a fire prevention notice on a what crop. The roadside grass was longer. Was not prepared to discuss. Notice should not have been issued. Crop was harvested because of a fire notice. It was not able to be used for anything. Farmer suffered loss (costs money to plant and maintain a crop). Roadside grass still not slashed. Continued ignorance of rural land uses and even on farm safety practice to manage risks will lead to more use of inappropriate fire notices.
<a href="#">9 - TRAINING, CAPACITY BUILDING AND LONGER-TERM OPPORTUNITIES</a> <b>Error! Bookmark not defined.</b>	Done nothing to inform rural / non dwelling considerations. Urgent need to make sure the planning system addresses this if the scope is to be met. Scope should be wider – it should be about avoiding in the first place and should include reviewing the recovery provisions which focus on dwellings.
<a href="#">9.1 Accreditation</a> ..... <b>Error! Bookmark not defined.</b>	See above. Even the CRCBNH CBA model ignores agricultural impacts.
<a href="#">9.2 Aligning bushfire referral and decision making with bushfire risk</a> ..... <b>Error! Bookmark not defined.</b>	OK based on current referrals if the system is fixed. This needs to be monitored to avoid a private building surveyor issue as bushfire ‘qualified’ planners have ignored / challenged landscape risk established by CFA. Criteria / decision guidance needs to allow ‘protection’ of rural life and property – and this should not need a referral. Better to have an exemption. A 10/30 for farming with action from crown to deliver.
<a href="#">9.3 Training and capacity building for planning system users</a> <b>Error! Bookmark not defined.</b>	Training is dwelling focused. VFF is working with EMV to deliver ‘fact sheets’ for emergency managers. The planning system also needs to understand the consequences of emergencies on farms so the system can ensure provisions allow for the consideration of protection of life and property as a reason why a development permit has been triggered.

### Response to the engagement document – key areas for urgent action

VFF previous submissions, policy, and suggestions to DELWP or DELWP Ministers relating to emergency management have been included and are considered relevant as background to our submission and the urgent need for a first principles SMART review of all planning scheme content relating to agriculture.

Since the 2021 storms VFF has been preparing a review of safety considerations in certain provisions. These are applicable in many circumstances.

As an interim first step we recommend that the focus of this document be non-urban uses and rural bushfire risk and native vegetation. The native vegetation regulations were developed with urban land use change in mind and applied to farming areas where revegetation has been occurring on farm for generations, and where planning controls are now impacting on desirability of annual revegetation and increased use of introduced species.

### Bushfire and Native Vegetation

Native vegetation can be removed with the 30/10 rule around a DWELLING but not around a farm building or other important business areas?

The exemptions give certainty to **landowners and residents** at risk from bushfire so that vegetation can be cleared, and the property maintained in a fire-ready condition. However, this exemption is only allowed to be used for a dwelling to provide defensible space, not other buildings.

The VFF and its members are affected by the current native vegetation regulations, as highlighted by the recent storms and flooding events, in July 2021 and January 2022. The current regulations are restrictive and are only focused on limiting the amount of native vegetation that can be removed, instead of safety. The objectives set out in the Planning and Environment Act specifically mention “*to secure a pleasant, efficient and safe working, living and recreational environment for all Victorians and visitors to Victoria*”, however, safety is not mentioned in Clause 52.17 within the Victorian Planning Scheme.

After extreme weather events many roads are blocked by fallen trees as well as infrastructure like farm fences damaged by vegetation. Vegetation that would fail a risk assessment is very difficult to get permission to manage the risk. VFF can identify cases with known dangerous vegetation where NVR permits were refused and damage has been caused, including a very near miss where a farm gate near the entry to a sports venue was crushed.

The native vegetation exemptions listed at Clause 52.17 of the Victorian Planning Scheme have an exemption for Emergency Works, which reads:

*“Native vegetation that is to be removed, destroyed, or lopped:*

- *In an emergency by, or on behalf of, a public authority or municipal council to create an emergency access associated with emergency works; or*
- *Where it presents an immediate risk of personal injury or damage to property. Only that part of the vegetation that presents the immediate risk may be removed, destroyed or lopped under this exemption.”*

This exemption is read in two parts and is only for emergency works but does not enable creation of access to prepare for an emergency or after an emergency has occurred and the immediate threat has passed. It also does not enable the removal of native vegetation that has the potential to cause personal injury or property damage in the longer term - a planning permit is still needed for this.

This is the only exemption that considers safety to human life, there are other exemptions for road safety. However, they are more targeted towards maintenance of roadsides on behalf of a public authority or municipal council. Many Councils are more concerned about ‘expectations’ than safety and DELWP and Council assessors generally consider environment not public safety.

The struggle to clear dangerous native vegetation along roadsides has also been raised as an issue by several VFF members. Most roadside clearing is the responsibility of the council or DELWP, however council can issue permits for vegetation to be cleared by another party. The issues that our members have alerted us to include council letting the vegetation become overgrown so that machinery now cannot pass through the road to access farms, including CFA trucks. This lack of action affects the farm and the business, and the overgrown vegetation can also become a fire risk and safety hazard. Trees are more likely to fall in wind or heat conditions – which landscape level fires can create. Trees blocking roads are a key risk to life and is a key contributor to loss of life in bushfires.

Within the purpose of Clause 52.17 – Native Vegetation, safety to human life or infrastructure is not mentioned. The purpose seems to be focused on minimising the removal of native vegetation. The purpose reads:

*“To ensure that there is no net loss to biodiversity as a result of the removal, destruction or lopping of native vegetation. This is achieved by applying the following three step approach in accordance with the Guidelines for the removal, destruction or lopping of native vegetation (Department of Environment, Land, Water and Planning, 2017) (the Guidelines):*

- 1. Avoid the removal, destruction or lopping of native vegetation.*
- 2. Minimise impacts from the removal, destruction or lopping of native vegetation that cannot be avoided.*
- 3. Provide an offset to compensate for the biodiversity impact if a permit is granted to remove, destroy or lop native vegetation.*

*To manage the removal, destruction or lopping of native vegetation to minimise land and water degradation.”*

The VFF considers that for the native vegetation regulations to work more cohesively within the planning scheme, safety should be considered when making decisions about native vegetation, like how safety is considered for bushfire controls. Trees are living things. They age (senescence). As they age, they are more likely to shed limbs. This increases risk to life and property.

The second identified issue with native vegetation regulations is how long planning permits can take to go through council. This has been an issue for the VFF’s members recently. Members in the north-west have approached council for help in how to remove native vegetation along roadsides (public and private) and the process to go through council has taken over 3 months. The long process to remove overgrown native vegetation can mean that the vegetation can become more dangerous and subsequently become a hazard when extreme weather events (such as fire and storms) happen. The vegetation can block access to a property by large vehicles – such as fire trucks and ambulances. Removal of native vegetation may also be limited to certain times of the year due to access, safety, and fire risk.

The VFF propose these three solutions to ensure that safety is considered when native vegetation planning applications are assessed:

### **1. Including safety in the purpose of Clause 52.17 – Native Vegetation and in the Clause 65 Decision Guidelines**

Safety is currently not mentioned within Clause 52.17 and does not have to be a consideration when assessing for a planning permit for the removal of native vegetation. The VFF proposes that safety to human life, property and livestock be considered when assessing native vegetation applications and be included in the clause. It is apparent that extreme weather events are becoming more common and that is why safety needs to be a consideration when assessing a planning permit for native vegetation.

### **2. Possible VicSmart Planning Permit process for native vegetation**

The VicSmart planning permit process is a tool that is readily available and already in place within the planning schemes. The VicSmart tool could be used to allow for the clearing of native vegetation in some circumstances. This tool cannot be used for large clearing but can be useful to quicken the process for safety reasons.

### **3. Independent reference group to redevelop native vegetation regulations**

The reference group should be made up of an independent Chair and senior representatives from DELWP and Industry groups that want to reform the native vegetation regulations. The group's role should be specifically around including safety for human life, livestock and property within the Planning Scheme and the Planning and Environment Act.

### Other Clauses for review of content.

Appendix A includes current VPP policy provisions with commentary on areas for review to ensure agricultural / rural considerations and safety are facilitated. There are many other provisions that can be improved to ensure equity of all lives and aspects of property are delivered in the planning scheme and inclusion of the VFF in the steering group for this project would allow a forum for these to be addressed.

## CONCLUSION

The VFF believes all lives are equal and safety is a key consideration in every zone. Our emergency management system is based on protection of life and property. It is DELWP's residual risk model that has reduced life and property to a dwelling as the indicator for both for modelling purposes.

VFF believes that part of the move to factoring consequence, community and communications is an understanding that the current system and tools are not addressing all aspects of life and property which is exacerbating the impact of emergencies on community.

Our members' lives matter. Their businesses matter. Farming is one of the most exposed sectors to climate change and natural disasters. Our industry embeds sustainability and preparedness into their practices and research. They are the backbone of volunteering organisations such as CFA and Landcare. They demand a planning system that not only allows them to manage risk but values their lives and livelihoods.

### Attachments

Commentary on VPP Policy Provision's

#### VFF positions

Bushfire – prevention to recovery suggestions  
Good Neighbour Policy

#### Submissions

Councils and emergencies  
Strategic Bushfire Engagement  
Delivering Bushfire Reform  
IGEM 2019-20  
Natural Disasters Royal Commissions

#### Letters

Definition of Property  
Position – Native Vegetation  
Right to Farm

#### Budget and election asks

Minister for Planning – 2018 St Patrick's day fire provision suggestions (to Ministerial advisors)  
2019-20 and 2022-23 asks



## The Victorian Farmers Federation

Victoria's agricultural production accounts for over \$13 billion of Victoria's economy and over 25 per cent of the State's exports per annum. Victoria's farmers produce high quality food and fibre, produced to high standards of safety, with little taxpayer support, and to some of the strictest environmental and highest animal welfare controls in the world.

The Victorian Farmers Federation (VFF) represents a farming community that creates a profitable, sustainable and socially responsible agriculture sector connecting with consumers.

We have a proud history representing Victoria's farm businesses since 1979 – primarily family farms that produce the eggs, grain, fruit and vegetables, meat, and milk that help to feed Victoria's six million people, and the bigger global community, every day.

The VFF consists of commodity groups: dairy (United Dairyfarmers of Victoria), grains, horticulture (including Flowers Victoria), intensives (chicken meat, eggs and pigs), and livestock – and expert committees representing; water, land management, agricultural and veterinarian chemicals, farm business and rural development, and workplace relations.

Our purpose is to make Victorian farmer's lives better; enhancing Victoria's future.

Our mission is to ensure a community of farmers creating a profitable, sustainable, and socially responsible agricultural industry connecting with all Victorians.

## Endnotes