



Briefing on EPBC Act Strategic Assessment of Delivering Melbourne's Newest Sustainable Communities Program

Overview

The EPBC Act Strategic Assessment of Melbourne's proposed growth areas is a unique opportunity for the Australian Government to influence the survival or destruction of native grassland, one of Australia's most endangered and threatened habitat types. The conservation stakes are very high.

Natural Temperate Grassland of the Victorian Volcanic Plains, and Grassy Woodlands, are both listed as critically endangered under the EPBC Act and are home to at least 25 fauna species and 32 flora species listed or nominated for listing under the EPBC Act and identified as potentially occurring with the proposed strategic assessment program area.

As this is likely to be the first strategic assessment to be completed under the EPBC Act, it is imperative that decisions made by the Federal Environment Minister demonstrate the full intent and scope of the Act, fulfill our international commitments to protect biodiversity, and deliver on community expectations to protect nature.

In this light it is our view that the Melbourne Strategic Assessment is a key test of the Australian Government's capacity and commitment to the protection of biodiversity. While conservation groups have had concerns about the pace, process and ecological information which underpins the Assessment, we believe that thoughtful decision-making by the Federal Minister could make significant improvements to the overall conservation outcomes.

There are five key areas where the Australia Government can make a significant improvement to the proposed Melbourne Growth program, by applying strict approval conditions. These cover the need for:

- 1) Enforceable regional biodiversity conservation strategies**
- 2) A clear and deliverable grassland reserve implementation plan**
- 3) Prescriptions and rules for protection of high-value grassland areas**
- 4) Commitment to and clarification of a northern grassy woodland reserve and prescriptions**
- 5) Delivering real offsets.**

These issues and opportunities are outlined in detail below.

ISSUE 1) Enforceable regional biodiversity conservation strategies

The Australian Government needs to ensure that any approval of the Melbourne Growth Program includes conditions which describe the scope, content and legal force of the Biodiversity Strategies and Sub-regional Species Strategies outlined in the Program Report.

The Program Report, *Delivering Melbourne's Newest Sustainable Communities*, August 2009, outlines a process for Stage 2 – Implementation (See Figure 4, page 26). It includes the proposal for Biodiversity Conservation Strategies and Sub-regional Species Strategies to be developed to feed directly into the Growth Area Framework Plans and Precinct Structure Plans. The Program Report states *“An overarching Biodiversity Conservation Strategy... will inform the preparation of Growth Area Framework Plans and ensure high level guidance. They will outline how the areas of biodiversity value within the growth areas will be managed”*.

No guidance is given on the legal status or scope of these strategies. But the strategies could be a vehicle to develop an urban conservation network and provide a regional ‘ecological’ basis for planning – a truly strategic approach.

These instruments could have an important role in establishing a spatial framework and prescriptions to protect biodiversity values in subsequent Growth Area Plans and Precinct Plans, provided that they are strengthened in the following ways:

- a) aims
- b) scope
- c) timeframe
- d) public review and ministerial approval
- e) enforceable status
- f) consultation

Detailed content is outlined below.

a) Aims of the Biodiversity Conservation Strategies should include:

- To identify significant native vegetation, threatened species habitat and other sites of biodiversity value, and specify measures to protect them
- To maintain ecological processes and landscape function across the (sub-)region
- To delineate a network of small, medium and large conservation reserves¹ in Growth Areas and adjacent Green Wedges, to include and connect key areas of each habitat type.

b) Scope of the Biodiversity Conservation Strategies should not be limited to the ‘retained’ areas excluded from urban development within the expanded Urban Growth Boundary (UGB) (as proposed in the Strategic Impact Assessment). Instead, the scope and contents should include:

- All areas of high conservation value, including
 - all public land with existing/potential biodiversity value
 - known and likely areas of regional, state and national conservation value
 - waterway corridors
 - key areas for connectivity.
- Mapping of areas to be protected in conservation reserves, including areas to be managed by local government or State Government authorities.
- Measures to protect and/or create habitat for threatened species, including wetlands for migratory species and Painted Snipe in the south-east and north.

¹ We strongly object to arbitrary minimum size limits for reserves being imposed in prescriptions, as small and medium-sized reserves can sustain species and communities over the long term.

- Links to maintain connectivity across Growth Areas to areas of biodiversity value in Green Wedges, and between related habitat types (e.g. grassland, grassy woodland, stony rises and knolls, floodplain grasslands, lignum swamps and riparian zones).
- Mechanisms by which land will be secured and managed (including tenure, responsible agency, statutory planning controls²).

c) Timeframe for both types of strategies must be sufficient to collect data, allow for public review of draft documents, and finalise considered strategies before the Growth Area Framework Plans are prepared.

d) Public review and ministerial approval: Both types of strategies should be exhibited in draft form for public comment. We recommend that the Biodiversity Conservation Strategies and Species Strategies, as well as the Growth Area Framework Plans, be subject to approval by the Federal Minister for the Environment.

e) Enforceable status: Growth Area Framework Plans and Precinct Structure Plans (and, where relevant, Conservation Management Plans) should be required by law to be consistent with the strategies. The strategies should clearly and concretely identify outcomes to be achieved, enabling consistency of the strategies to be easily evaluated.

f) Consultation: Strategies should be developed through consultation (including data sharing) with the Victorian Environment Assessment Council and the federal Department of Environment, Water, Heritage and the Arts. Consultation may include liaison, data-sharing and discussion of management recommendations. Any management recommendations must be consistent with approved conservation advice, recovery plans, threat abatement plans or wildlife conservation plans made under the EPBC Act. Where no conservation advice or plans have been approved, the Strategies should reflect the best scientific evidence available to the Commonwealth Minister on the measures for the preservation of relevant species.

Biodiversity Conservation Strategies would benefit from liaison, data-sharing and discussion of management recommendations with the Victorian Environment Assessment Council, which is currently conducting a Metropolitan Melbourne Investigation looking at existing public land.

² The Environmental Significance Overlay for grasslands proposed in the SIA (p122) for Werribee Plains should be applicable to all native grasslands.

ISSUE 2) Clear and deliverable grassland reserve implementation plan

The proposal for 15,000 ha of new grassland reserves (to be purchased from private landholders) to the west of Melbourne is great news for one of Victoria's most endangered ecosystems and shows some foresight by the State Government. However, the area proposed is of varying vegetation quality and conservation significance, and is proposed to be funded largely via offset charges from clearing within the UGB.

While the idea of a large consolidated grassland reserve has some merit for some key species, there are questions about the ecological logic of this being the only strategy to offset losses from clearing. In addition, as the proposed reserves are on private land it will be challenging for government to deliver a consolidated reserve system over 10 -20 years and numerous election cycles without robust and innovative policies and institutional frameworks to ensure delivery.

There is also a concern that the offsets or trade-offs between what is to be lost and what is to be protected do not add up in line with existing State and Federal government offset policies (see section 5 for more detail). The Australian Government needs to ensure that any approval under the EPBC Act has clear conditions to ensure that the grassland reserves are delivered as proposed. Without such a measurable and transparent plan, the proposal runs the risk of being nothing more than lines on maps, without any real conservation outcomes.

The reserve plan needs greater detail, particularly in relation to the governance, purchasing and management needed to ensure that a permanent outcome can be delivered. This involves the following:

- Reserves need to be delivered within five years (one election cycle) - see below for indicative timeline
- A clear implementation plan should be released to the public, with binding targets for implementation including:
 - o Audits and net gain accounting publicly released every two years to ensure net gain is being achieved
 - o Management plans to developed annually/progressively for each block purchased
 - o Complementary management guidelines and incentives to be in place for private landholders who are unwilling to sell, or as a part of a broader bioregional plan.
- Reserves need to be purchased upfront and established before clearing within the growth areas commences
- Money (estimated \$200 - \$300 million +) needs to be raised with a mix of State and Australian government money, developer levies and offset payments for clearing from developers. Ideally, reserve purchase needs to be 'front-end loaded' with government funds to progress delivery without waiting for funding from proposed clearing.
- The proposed reserves need a high level of protection, with core areas reserved as national park and other areas as part of the protected areas network (which can include private land). Greater landscape protection needs addressing via funding for conservation covenants (delivered through market-based tools such as BushBroker, with Trust for Nature Covenants) across the Volcanic Plains, and as a potential transitional measure for private landholders unwilling to sell in the short term in the proposed grassland reserve areas.
- There should be some key additions to proposed park areas to connect and link the two parks and add further high value areas.
- Funding needs to be managed via an independent trust at arm's length from government to ensure that the significant funds required are used for conservation and not re-directed at a later date if there is a change of government. This trust would manage and oversee funding of land purchase for grassland reserves.
- Any incentives or stewardship schemes need to have a high degree of permanency and be eligible for inclusion in the National Reserve System and CAPAD, e.g.via Trust for Nature Covenants.

Example of Indicative Grassland Reserves Implementation Schedule/Targets

Year	Activity	Target
Year 1 (Nov 2009 – Nov 2010)	<ul style="list-style-type: none"> - Independent fund established - Park implementation & development plan released - Public Acquisition overlay in place - Initial land purchase commenced - Complementary management guidelines & incentives in place for landholders within proposed reserve areas - Specialist grassland management unit established. 	1000 ha secured
Year 2	<ul style="list-style-type: none"> - Conservation management plans established for new purchases - Land purchase continues - Regional grassland incentive scheme launched for covenants & stewardship - Milestone audit and net gain account - Community advisory group & Friends group established - Improvement works commenced (as per management plans) 	3000 ha secured
Year 3	<ul style="list-style-type: none"> - Conservation management plans established for new purchases - Land purchase continues 	4000 ha secured
Year 4	<ul style="list-style-type: none"> - Conservation management plans established for new purchases - Land purchase continues - Milestone audit and net gain account 	4000 ha secured
Year 5	<ul style="list-style-type: none"> - Conservation management plans established for new purchases - Land purchase continues 	3000 ha
Year 6	<ul style="list-style-type: none"> - Final Audit and net gain account - Park Management Plan completed 	
Year 7 – 15	<ul style="list-style-type: none"> - Management plans implemented, detailed accounting every 2-3 years to demonstrate management gains in habitat quality. 	
Outcome		15,000 reserve

ISSUE 3) Prescriptions and rules for protection of high-value grassland areas

There are deep concerns about the intent of the proposed grassland prescription, which would allow the destruction of many significant areas of grassland for the expansion of Melbourne's Urban Growth Boundary. Many of the other prescriptions in the SIA focus only on a select group of nationally threatened species. The approach to nationally threatened ecological communities is largely based on offset proposals that are without a sound ecological basis.

There is a strong case for including a network of smaller conservation reserves within the UGB to complement the major western grassland reserves. Given that remnant areas of critically endangered vegetation communities and important populations of threatened species are known to exist within the UGB (but not necessarily within the proposed grassland reserves), this approach would be more likely to:

- a) conserve species, and important genetic diversity within species
- b) conserve representative areas of different grassland sub-communities
- c) conserve endangered woodland and ephemeral wetland communities that are not strongly represented within the proposed grassland reserves.

There is no biological basis for certain assumptions made under the prescriptions for individual species (or for the models of habitat contributing to species persistence in Appendices 3-5, SIA August 2009), particularly those regarding the area requirements of species and vegetation communities. The area of habitat required to support a population or community is grossly overstated, thereby undervaluing smaller areas of remnant vegetation (e.g., < 150 ha). For example, the Golden Sun Moth can persist in small patches of habitat, such as a 4.5-ha grassland reserve in Nhill (Douglas 2004). However, the model in Appendix 3 assumes that areas < 100 ha do not contribute to species persistence, and areas < 1000 ha make only a small contribution. A review of the area requirements of butterflies and moths (Thomas et al. 2000) indicates that most sedentary species require 2 ha or less, and very few species require more than 10 ha.

Box 1 Proposed Prescription in final SIA Report

Between the proposed new Urban Growth Boundary and the existing Urban Growth Boundary:

Clearing of native grasslands has already been avoided and minimised. Further areas will only be retained within the Urban Growth Zone if required to meet a relevant prescription (eg. Spiny Rice-flower, Matted Flax-lily, Golden Sun Moth) or if the site contains an endangered or critically endangered orchid species).

Inside the current Urban Growth Boundary:

The Precinct Structure Planning process will seek to avoid and minimise impacts on native grasslands, as required by the *Native Vegetation Management Framework*;

Retention of grassland areas within precincts will be determined on a case by case basis but any retained remnants must be manageable (for example, be of appropriate size and shape and appropriately resourced) and demonstrably able to retain their values in the long term that is, part of a contiguous area of native vegetation under the same type of management typically of at least 150ha including adjacent areas outside the precinct);

Priority will be given to areas of native grassland that support other nationally significant species, where these different assets can be effectively managed within the retained area over the medium to long term; and

All permitted clearing of native grasslands will be offset in accordance with the Victorian Native Vegetation Management Framework. The proposed Western Grassland Reserves will provide offsets for this purpose.

Based on existing information, well-managed reserves of 20 ha could reliably support populations of the Golden Sun Moth, *Pimelea spinescens*, *Dianella amoena* etc. (e.g. Thomas 2000; Douglas 2004; Williams et al. 2005; McCarthy et al. 2006;).

We accept that not all grassland remnants within the UGB can be retained and protected, but we do believe that irreplaceable high conservation significance areas need to be retained as part of an 'urban grassland conservation network'.

It is proposed that a prescription be developed which can be utilised in the preparation of Biodiversity Conservation Strategies³ as a critical point at which to assess the attributes of native grasslands and identify crucial landscape-scale factors for reservation.

The Australian Government should establish a prescription for protection of high-quality nationally threatened grassland communities within the urban growth areas, with a view to establishing a biologically diverse 'urban grassland conservation network' to complement the proposed reserves to the west of Melbourne. The prescription should include the following:

1) It should apply both inside the current UGB and between the proposed new UGB and the existing UGB. The Biodiversity Conservation Strategies will identify a strategic, landscape-wide network of conservation reserves for each of the northern and western Growth Areas, including significant native grasslands and associated communities (e.g. stony knolls, grassy wetlands, grassy woodlands). These Strategies will include the already designated 'retained' areas and as far as possible⁴ all significant non-retained native grasslands that fall within the proposed Urban Growth Zone.

2) These conservation reserve networks will be identified in the Growth Area Framework Plans. Refinements to the boundaries of protected areas, consideration of any new information and protection of small remnants could occur at the Precinct Structure Planning stage but be guided by the following criteria:

- In general, retention of these significant grasslands will be determined on a case-by-case basis during the development of the Biodiversity Conservation Strategies, with priority given to areas of native grassland that have *one or more* of the following attributes:
- are of 'high quality' (defined as a 'Site Quality Score' component of the Habitat hectare assessment of greater than 40 using the 'Habitat Hectare' approach (DSE 2004) carried out in late spring - early summer i.e. October- December inclusive, by qualified assessors)
- are of high flora species richness. Thresholds for high species richness will need to be defined for individual EVCs as EVCs differ in their 'natural' species richness. One meaningful threshold might be developed from the *average* species count of high-quality sites (as identified above) identified from a literature review of quality grassland botanical assessments⁵.
- represent a moderate to high quality example of a rare grassland type of regional or higher significance (as per Amos 2004).
- are contiguous with or, through feasible restoration of identified critical grassland functions (using an agreed definition of 'feasibility'), are able to be connected to other protected native vegetation, thus optimising important ecological connectivity and size/shape attributes of reserves that contribute to longer term manageability
- are required to meet a relevant prescription (e.g. Spiny Rice-flower, Matted Flax-lily, Golden Sun Moth, etc);
- contain an endangered or critically endangered orchid species
- support threatened or near-threatened flora and fauna species without prescriptions, or species likely to become threatened in the future, using criteria as identified during assessments carried out for development of Biodiversity Conservation Strategies and reviewed on a five-yearly basis, when seasonal conditions are favourable for attracting key fauna species, or on the publication of significant new information.
- constitute a 'large' expanse of grassland vegetation that, when combined with adjacent open space areas⁶, including areas outside the precinct, forms a contiguous area of at least 10ha

³ The purpose of Biodiversity Conservation Strategies needs to be expanded to include areas beyond the already identified 'retained' areas, as noted on p2, above.

⁴ We recognise that in some cases the only possible location for major infrastructure, e.g. new regional rail link, is in areas of significant grassland.

⁵ This threshold would capture sites that whilst weedy or otherwise degraded, and thus not scoring 'high' for quality, retain a high species count and thus retain one of the main prerequisites for *assisted natural regeneration*, genetic resources and scientific value as reference sites

⁶ The other open space area need not meet the definition of native grassland or other native vegetation but should at least provide an appropriate matrix for the remnant.

capable of sustaining a range of native grassland biodiversity values⁷ when managed in a manner compatible with grassland biodiversity conservation.

All permitted clearing of native grasslands will be offset in accordance with the Victorian Native Vegetation Management Framework. Clearing could be considered where the grassland area does not meet any of the above attributes. Offsets should be located as far as possible within the growth area where the clearing is located. The proposed Western Grassland Reserves will provide many of the offsets for this purpose from the west of Melbourne, but some offsets will be located within the UGB, in the west and north, with every attempt made to match like-for-like EVCs and other key characteristics.

ISSUE 4) Commitment and clarification of northern grassy woodland reserve and prescriptions

The proposed prescription for Grassy Eucalypt Woodland also needs to have a clear definition that at least 50% of the perennial ground layer must be native species OR that there are at least three large trees per hectare. This would allow for retention of areas suitable for restoration, as often the understorey bounces back quickly when stock are removed and weeds controlled.

The Strategic Impact Assessment Report describes the “major initiative” of the Western Grassland reserves “in considerable detail” (section 6.1.1). In contrast, the statements about a “substantial conservation reserve based around Grassy Eucalypt Woodland” adjacent to the northern Growth Area (p123) are vague and uncertain.

This reserve is very important to permanently protect some of this EPBC Act listed Critically Endangered community, of which up to 683 ha will be cleared due to the urban growth program. Statements of intent to “investigate” are not sufficient: a binding commitment is required to a detailed reserve proposal, as for the Western Grassland reserves.

The reserve proposal should include:

- Proposed boundaries
- Reservation type
- Management authority/ies
- Interim management and protection arrangements
- Acquisition processes
- Funding sources
- Implementation schedule.

Funding for acquisition and management of the Grassy Woodland reserve should not be solely dependent on offsets from clearing; instead, funding from Commonwealth (as part of the National Reserve System) and State Governments is appropriate.

⁷ We have based this proposal of 10ha on consideration of the capacity to support ground-nesting birds, a native grassland value that is assumed to be development-sensitive, at two urban grasslands in the Merri Creek catchment with a high degree of linkage to an interrupted wildlife corridor. Both of these areas support significant grassland flora values. The differences suggest 10 ha is close to a biological threshold for certain fauna species characteristic of Native Grasslands. It is recognised that an agreed definition of ‘values’ is essential in determining a biologically meaningful threshold for reserve size and that thresholds for other values (eg. capacity to support populations of sedentary grassland birds or reptiles) could be identified as a part of scientific analysis of available data.

(1) Bababi Djinanang (Jukes Rd Grassland, Fawkner) is an approx 4 ha grassland remnant surrounded by approx. 7 ha of open space with low-impact recreational usage, and arranged in a roughly circular shape with a low ratio of urban interface to area. It supports small breeding populations of three species of mobile ground-nesting birds and a range of other grassland fauna.

(2) Ngarri-djarrang (Central Creek Grassland, Reservoir) is a larger remnant of approx 7 ha in a reserve of approx 11 ha but with a narrower shape and with a much more intense and extensive urban interface. It appears to support just one species of common ground nesting bird despite being only a few hundred metres from Jukes Rd Grassland.

ISSUE 5) Delivering real offsets

We are concerned that the heavy emphasis on macro-level avoidance and minimisation of environmental impact means that, at a precinct planning level, there is a perceived lack of need for further avoidance and minimisation, and a corresponding preference to simply offset any environmental damage that occurs (particularly given the planned Western Grassland Reserve which, as currently designed, depends for its viability on large-scale offsetting occurring). The conditions of the approval should make clear that there is a continuing obligation on planners and developers to seek to avoid environmental impact wherever possible, including in the Precinct Structure Planning process.

In addition we are concerned that the 'black box' calculations for offsets are predominantly based on deemed gains, not physical gains commensurate with the proposed losses through clearing.

The revised SIA report (August 2009) includes figures suggesting that the proposed western grassland reserves can provide sufficient habitat hectare gain, including like-for-like gain for listed species, to meet Net Gain offset requirements for the projected clearing. The report identifies a total habitat hectare loss of 4434 habitat ha and a gain via the development of Western Grassland reserve of 4418 habitat ha (p. 127).

Box 2: Australian Government Policy on Offsets

The Australian Government notes in policy on offsets (DEWHA 2007) that its position is that:

1. Environmental offsets should be targeted to the matter protected by the EPBC Act that is being impacted.
2. A flexible approach should be taken to the design and use of environmental offsets to achieve long-term and certain conservation outcomes which are cost effective for proponents.
3. Environmental offsets should deliver a real conservation outcome, both direct and indirect offsets.
5. Environmental offsets should, as a minimum, be commensurate with the magnitude of the impacts of the development and ideally deliver outcomes that are 'like for like'.
6. Environmental offsets should be located within the same general area as the development activity.
7. Environmental offsets should be delivered in a timely manner and be long lasting.
8. Environmental offsets should be enforceable, monitored and audited.

(Draft Policy Statement: Use of environmental offsets under the Environment Protection and Biodiversity Conservation Act 1999 August 2007, Australian Government)

The projected gains from the proposed reserves have been calculated using the Victorian Vegetation Gain Approach (DSE 2006) and the Gain Calculator (Version 1.2.4 Oct 2008). This formula states that there are four types of Gain: prior management (10% weighting), security (40% weighting), maintenance (30% weighting) and improvement (20% weighting), which includes a combined prior management and security gain of a whopping 50% of the current habitat score, without any physical improvement. With the addition of the maintenance gain, only 20% of calculated net gain could be considered physical improvement. Clearing, on the other hand, will be a 100% physical loss.

The tenure change could account for over half of the projected gain for the proposed reserves. About 2212 hab. ha out of 4418 hab. ha⁸ could be related to tenure change, without any measurable improvement in habitat other than increase security. While increased security is important to the long-term conservation outcome, there are important questions about ensuring alignment with Commonwealth priorities with the assumptions entrenched in the Victorian Net Gain calculations for grasslands. In comparison, for secure private land offsets (such as under Trust for Nature Covenants) the security gain (credit) is only 10%, and for municipal reserves 20%. Due to the high risk nature of the proposed tenure change from private land to national park (see Issue 2 for discussion), there is merit in the argument that the security gain should perhaps be lower, e.g. 10-30%, more in tune with private land or municipal offsets, and take into account the many

⁸ If an average score of 50 across the two reserves which would give a security gain of $0.4 \times 0.5 = 0.2$ hab ha/ ha, so that overall security gain = $0.2 \times 10\,610 = 2212$ hab ha, a substantial portion of the overall gain.

other nationally listed species potentially impacted by the proposal. The 10% prior management gain is in our view without ecological logic, and should also be removed from the calculations.

It is also arguable that the impacts of the proposed clearing on such a depleted ecosystem really should equate to the protection of the all the remaining fragments, of which reliable estimates suggest that only 20,000 – 30,000 ha remain across the whole bioregion.

The Australia Government should carefully examine the detail of the Victorian offset calculations to ensure that they align with the Commonwealth criteria for 'like for like' and 'deliver real conservation outcomes'. Conservation groups recommend that ecological and conservation outcomes of offsets be maximised to ensure real physical conservation gains in the following ways:

- Delivery of at least 15,000 ha in the reserve system, which is secure, well managed and connected across the landscape, within five years, with management or improvement gains to be measured and audited to ensure that 'real physical gains are achieved';
- Increased protection across the landscape, targeted through additional incentive and stewardship schemes to be developed to support private covenants across the whole bioregion.

These measures, combined with the range of institutional and planning tools outlined above, would in our view lead to a much-improved outcome for the protection of native grasslands and grassy woodlands in and around Melbourne.