5. Victoria

5.1 Legislative framework

Local governments in Victoria have been granted relatively broad powers with relation to environmental control, protection and conservation. Their functions include the control of plants and, through this, provision for the conservation of native vegetation as outlined in Schedule 1 of the *Local Government Act 1989*. Under the *Planning and Environment Act 1987*, local governments have responsibility for the control of land use and planning within their municipalities. Local governments are, therefore, responsible for land use and planning and, in exercising their functions under the Local Government Act, they can act with regard to vegetation conservation and protection. In this respect, the position of Victorian local governments is similar to those in other States. However, the extent to which their powers may be exercised is limited by other legislative requirements, in particular the *Flora and Fauna Guarantee Act 1988,* the *Alpine Resort (Management) Act 1997*, the *Catchment and Land Protection Act 1994*, the *Coastal Management Act 1995*, the *Conservation, Forests and Lands Act 1987* and the *National Parks Act 1975*. These Acts remove certain areas from the jurisdiction of local governments, impose additional requirements for land use and planning which override those imposed by local governments, and may require that local governments consider issues relating to vegetation clearance within their planning schemes.

The primary mechanism for vegetation management by local government is the planning and land use system. Local governments are responsible for developing and enforcing a planning scheme for areas within their jurisdiction. The planning scheme sets out policies and requirements for the use, development and protection of land. There is a planning scheme for every municipality in Victoria. They state which activities, developments or uses of land require the granting of a permit or development approval by the council. In issuing these, a council must consider the environmental impact of the proposal.

The format of the planning scheme must follow the structure of the Victoria Planning Provisions, which include State and Local Planning Policy Frameworks as well as zone and overlay provisions, particular provisions, general provisions and definitions.

The particular provisions contain specific provisions relating to the protection and conservation of native vegetation to reduce the impact of land and water degradation and to provide habitat for plants and animals (s52.17). In general, a permit is required to remove, destroy or lop native vegetation from a landholding greater than 0.4 hectares. This, with State and local planning policies, is the main method for the control of vegetation clearance.

The Victoria Planning Provisions also include standard overlays with schedules in which local provisions can be inserted. The specific provisions within a planning scheme can be supplemented in this way, for example, by use of a Vegetation Protection Overlay. In addition, further requirements may be placed on local government through State and regional agencies, which aim to ensure consistency and coordination of policy across regions.

The influence of State and regional bodies on the discretion available to local governments is clearly illustrated in the following table, which outlines the relevant legislation and the primary jurisdiction responsible for its implementation.

5.2 Powers of local government

5.2.1 *Local Government Act 1989*

Section 8 of the Local Government Act states that:

> (3) A Council has the power to do all things necessary or convenient to be done for or in connection with the performance of its functions and to enable it to achieve its purposes and objectives.

The purposes of a council are set out in section 6, the objectives of a council are contained in section 7 and section 8 outlines the functions and powers of local governments. Further specific grants of restrictions on power can occur within the Act itself, or within any other Act.[36]

Table 5.1: Environmental and land use legislation and implementing jurisdiction

Legislation	Jurisdiction
Alpine Resort (Management) Act 1997	State and regional agencies
Alpine Resorts Act 1983	State and regional agencies
Catchment and Land Protection Act 1994	State and regional agencies
Coastal Management Act 1995	State and regional agencies
Conservation, Forests and Lands Act 1987	State and regional agencies
Crown Land (Reserves) Act 1987	State
Environment Effects Act 1978	State
Environment Protection Act 1970	State
Flora and Fauna Guarantee Act 1988	State
Forests Act 1958	State
Heritage Act 1995	State
Land Act 1958	State
Land Conservation Act 1970	State
Local Government Act 1989	Local government
National Parks Act 1975	State
Planning and Environment Act 1987	State
Reference Areas Act 1978	State
Urban Land Authority Act 1979	State
Victorian Conservation Trust Act 1972	State
Water Act 1989	State

Local laws

A council has the power to make local laws 'for or with respect to any act, matter or thing in respect of which the Council has a function or power under this or any other Act'. A local law will be valid unless it is inconsistent with any Act or regulation (s111). This broad grant of power extends to allow a council by resolution to impose a 'fee, charge, fare or rent in relation to any property, undertaking, goods, service or any other act, matter or thing'. This power also allows a council to require that a permit or licence be sought for certain acts, and may also allow for the reduction or refund of a fee (s113). *These broad powers may allow local governments to offer incentives for the conservation of native vegetation*. For example, the council could impose, by way of a local law, an *environmental levy* on ratepayers. Similarly, the council could offer *rate rebates* in specified circumstances, such as when an area of land is retained for vegetation conservation (s113(3)). Such an unfettered grant of power can easily be utilised for vegetation conservation by local governments.

In order to pass a local law, the council must meet the requirements contained in section 119. It must give public notice in the Gazette of the purpose of the law and allow for persons affected by the proposed law to make submissions to council concerning the law. Once the law has been made, notice must be given in the Gazette and a copy of the law must be sent to the Minister. The only restriction on this is the Governor in Council's

36. Section 8 refers to the functions of a council as contained in Schedule 1. It is interesting to note that these extend to animal control, protection and conservation, and to plant control, but do not extend to plant protection or conservation. There is also a function of council which includes environment control, protection and conservation. Although there is no specific reference to plant conservation or vegetation conservation, they would reasonably be expected to fall within the functions that are stated, as they fall in environment control, protection and conservation, and therefore would be part of the functions of local government.

power, on the recommendation of the Minister, to revoke all or part of a local law. The Governor in Council may do this if the local law breaches the provisions of Schedule 8 of the Local Government Act (which deals with the scope and fairness issues in relation to local laws), if the law should more appropriately be contained in a planning scheme, or for any other reason considered appropriate by the Minister. This means that the Minister, in effect, has a right to veto local laws, but there is no need to gain the Minister's approval prior to making a law.

Grants to individuals and community groups

For a council to be able to offer financial assistance to an individual or community group for the purpose of vegetation conservation, such as providing *fencing assistance, it must be associated with a function or power conferred on the council by the Local Government Act or any other Act.* Section 136 states that a council may apply any money to '(a) enable the Council to perform the functions and exercise the powers conferred on the Council by or under this Act or any other Act'. If, however, the money which is to be utilised is from a specific purpose fund, the approval of the Minister is necessary before those funds can be used for another purpose (s152). *As councils have responsibility for plant control, it would therefore appear that it is within the powers granted to local governments to offer financial assistance for vegetation conservation.*

Rates and charges

Section 154 defines rateable land. In general, all land is rateable, except for unoccupied Crown land, Crown land and other land that is vested in a public authority or council and is used exclusively for public or municipal purposes, land that is used exclusively for charitable, religious or mining purposes, and land that is used exclusively by a club or memorial for people who served Australia in the armed forces. A council can declare general rates, municipal charges, service rates, service charges, special rates and special charges which will apply to rateable land (s156). *Councils may base their rates on the net annual value, the capital improved value or the site value of the land* (s157).

A *municipal charge* can be imposed to cover some of the administrative costs of a council, but it must not be over 20% of the total revenue from the charge and general rates per year (s159). Certain land may be exempt from this charge, including farm land which forms part of a single farm enterprise, providing an exemption is not claimed in respect of one rateable property which forms part of the enterprise, and is within the meaning of the *Valuation of Land Act 1960* (s159). *It may be possible for land which is retained for conservation to also be exempt under this provision. However, this would require either that the definition of farm land under the Valuation of Land Act were to include land maintained for vegetation conservation purposes, or an amendment to the Local Government Act, so that conservation land could also be exempt.*

General rates are determined by multiplying the value of the land as determined by the council by the percentage rate, which is set as the general rate level by the council (s160). If the council were to use the capital improved value of the site as the basis for the valuation, *land that is maintained for vegetation conservation would benefit through lower rates, as it would have a relatively low capital improved value.*

Alternatively, a council can impose a *differential rate* if it uses the capital improved value system and it considers that the differential rate 'will contribute to the equitable and efficient carrying out of its functions' (s161). If the council so determines, a differential rate can be used in relation to vegetation conservation if it can be shown that the land on a particular title will not require access to services and, therefore, will place a lower burden on council infrastructure than other land. *If a differential rate is to be used, the council must define the classes of land which are subject to the rate, the reasons for that, and the level of the rate for those classes.*

A council can impose a *service rate* or *service charge* for the provision of specified services. These services include the provision of a water supply and sewage services, disposal and collection of rubbish, and any other prescribed service (s162). As in other jurisdictions, this section would be able to be used to allow councils to charge an *environmental levy*

for environmental services *only if environmental services were prescribed as a service for the purpose of this section, or if the legislation were amended to include the environment as a service for which a charge could be imposed.*

Special rates and *charges* can only be used for the limited purpose of repaying any debts incurred by the council and to offset any debts incurred for which the person paying the rate has received special benefit (s163).

Section 169 is perhaps the most important section as far as rates are concerned. This section allows a council to 'grant a rebate or concession in relation to any rate or charge…(b) to preserve buildings or places in the municipal district which are of historical or environmental interest…' This section clearly allows for rate rebates where the land is important for the conservation of native vegetation. It also allows for the full amount of rates to be paid if the terms on which the rebate or concession was granted were not complied with. This would enable councils to require that an area of vegetation be maintained for the purpose of conservation for a set period of time; if this condition is breached, then the amount of unpaid rates would become an amount owing.

The Minister has an overriding power to limit the amount of funds that can be raised by a council through rates and charges in a single financial year (s185B). This may only be a limit where a council increases the maximum amount possible through its rating system and wishes to impose an additional environmental levy, but cannot satisfactorily justify an increase.

Land acquisition

A council has the power to 'purchase or compulsorily acquire any land which is or may be required by the Council for or in connection with or as incidental to, the performance of its functions or the exercise of its powers' (s187). The *Land Acquisition and Compensation Act 1986* applies in respect to the procedures for purchasing land. If a council also wishes to sell land, it can only do so in accordance with the provisions in section 189. These requirements are for public notification and for valuation of the land prior to the sale. It would be possible for councils to acquire and sell land of high conservation value using a revolving fund, as long as it can be established that the transactions were in connection to or incidental to the performance of the functions and powers of the council. As the protection and conservation of plants is a function, it would appear that land could be acquired for conservation purposes.

Roads and crown land

Section 203 states that a *public highway* is vested in the council within whose jurisdiction it is found. This section does not, however, apply to declared roads under the *Transport Act 1983*, roads on Crown land, and roads vested in a Minister or other public authority. *Crown land* and *roads on Crown land* are the sole responsibility of the Crown and will not be the responsibility of the council within whose jurisdiction they are found. Schedule 10 of the Local Government Act outlines the powers of councils over roads. Roads are defined as any land reserved or proclaimed as a street or road under the *Crown Land (Reserves) Act 1987* or the *Land Act 1958*. This would cover roadside vegetation, as it would occur within the area dedicated as a road. It does not, however, require that roadsides be managed for native vegetation.[37]

5.3 *Land use and planning*

5.3.1 *Planning and Environment Act 1987*

The purpose of the Planning and Environment Act is planning for the use and development of land in Victoria (s1). The Act states its objectives, which include establishing a system of planning schemes based on municipal districts as the main way to control land use, and to ensure that the effects on the environment of a proposed development are considered and to do this through a single

37. Schedule 1 outlines the functions of council, which include roads and nature strips. It is unclear from this whether the term 'nature strip' is meant to include roadside areas outside town boundaries or whether it is restricted to the 'contemporary' nature strip.

authority (s4). Local governments are responsible for the management of land use and planning within their jurisdiction through planning schemes, and are the primary body with responsibilities under this Act.

Planning

The Minister can prepare and approve standard planning provisions, referred to as the Victoria Planning Provisions (s4A). These can be amended or varied according to the legislation and come into effect as stated in the Act (ss4B–4I). An amendment to the Victoria Planning Provisions can also provide for an amendment to a planning scheme (s4J) and will be effective as if it were an amendment to the planning scheme itself.

New Victoria Planning Provisions came into force in December 1996 and apply to all new planning schemes. They are progressively replacing the previous provisions within the Planning Scheme State Section that were in force prior to December 1996.

Planning schemes

Planning schemes are the primary method for land use planning and development control. A planning scheme must seek to further the objectives of planning in Victoria, as in section 4, must contain a municipal strategic statement and may make provisions relating to the 'use, development, protection or conservation of any land in the area'. It may 'regulate or prohibit the use or development of any land', or provide that certain uses or development can only occur once an agreement has been entered into with a responsible authority (s6). A planning scheme cannot regulate or require the removal of a covenant entered into under the *Heritage Act 1995*, or the *Victorian Conservation Trust Act 1972* (s7). This ensures that *a planning scheme cannot override a specific agreement entered into by the landholder and the Victorian Conservation Trust or the Heritage Commission.* In this way, the principle of subsidiarity is operating, with the more restrictive arrangements overriding the general.

A planning scheme must contain local provisions and Statewide standard provisions, which together are known as the Victoria Planning Provisions. These State provisions include provisions relating to vegetation clearance. These act to 'restrict clearance of native vegetation throughout Victoria without a permit from local councils'.[38] The local provisions themselves include a municipal strategic statement and provisions to be included on the direction of the Minister. Planning schemes can be prepared by a municipal council or the Minister (s8). These are referred to as planning authorities or responsible authorities. The Act specifies what must be taken into consideration by a planning authority when preparing a planning scheme (s12).

A council must prepare a municipal strategic statement to be included in its planning scheme (s12A). This statement must contain the strategic planning, land use and development objectives, and strategies for achieving these objectives. It must be reviewed triennially (s12A). It is then the duty of the council to administer and enforce the planning scheme and to implement the objectives of the scheme (s14).

Where a planning scheme is to be amended, notice of that proposed amendment must be given to all persons who have an interest, which may be affected, and in a newspaper circulating in the area (s19). Submissions can be made under section 21. These submissions must be considered by the council (s23) and a panel, with hearings if required (s24). The panel must then prepare a report for the planning authority, which is to be publicly available. This report must be considered by the planning authority (s27) and the amendment can then be submitted to the Minister for approval (s35). Once approved, the amendment must be placed before each House of Parliament where it can be revoked by Parliament within 10 sitting days (s38). The amendment will come into force on the day specified, unless it has been revoked.

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38. See also Cornwall, A (1993), 'Protecting Victoria's flora and fauna', *Law Institute Journal,* No. 67. September 1993: 847–9.

Section 46 states that a planning scheme may apply to land reserved under the Crown Land (Reserves) Act. It can regulate or prohibit the use or development of land. This is one way in which local governments can exercise some control over Crown land. However, several Acts, such as the Alpine Resort (Management) Act, exclude land from this provision and therefore the control of local governments completely.

Victoria Planning Provisions

The Victoria Planning Provisions contain general and more specific provisions relating to the control of vegetation clearance.

The general policy is contained in the State Planning Policy Framework. It requires, for example, that planning authorities must have regard to the relevant aspects of regional catchment strategies under the Catchment and Land Protection Act (ss15.01–2) and the conservation of native flora and fauna (ss15.09-1). These policies secure the objectives and principles that should guide the preparation of planning schemes. In particular, subsection 15.09–1 requires:

> If native vegetation must be removed as part of a development proposal, planning and responsible authorities should require, where possible, the replacement of lost native vegetation by regeneration or replanting at least an equivalent area of vegetation.

More specific provisions are contained in subsection 52.17, which requires a permit to remove, destroy or lop native vegetation. A range of exemptions are provided. Examples of some of the most significant exemptions include:

- land, which together with all contiguous land in one ownership, has an area of less than 0.4 hectares;
- removal for fire fighting measures including the removal of ground fuel within 30 metres of a building;
- native vegetation that has been planted for timber production; and
- regrowth that is less than 10 years old and if the land is being re-established or maintained for cultivation or pasture.

Tighter controls can be applied through specific planning overlays that identify sites of particular value or interest. Relevant examples include Environmental Significance Overlay (ss42.01), Vegetation Protection Overlay (ss42.02) and Significant Landscape Overlay (42.03). Clearing of vegetation within areas covered by an overlay also requires a permit. The range of exemptions provided are significantly narrower than under the general native vegetation provisions (ss52.17).

Local governments are the responsible authority for issuing permits. They are, however, required to refer applications to clear native vegetation to the Secretary of the Department administering the Flora and Fauna Guarantee Act in a number of cases (ss66.04), including if the area to be cleared is 10 hectares or greater or if it is Crown land. In other cases, the local council will determine the application, unless this responsibility is delegated under the planning scheme in relation to certain provisions of the Planning and Environment Act (s13). Local councils have used this mechanism and included a provision that an application may be referred to the Secretary of the Department administering the Flora and Fauna Guarantee Act. The result is that many applications for small areas, which may be contentious, are, in fact, referred to the Department for their comment.

When deciding on a permit application, councils must consider the various guidelines contained in the relevant provision. These include:

- the effects of the proposed activity on the vegetation;
- the role of the area for vegetation conservation;
- protection of rare species and wildlife corridors;
- protection of vegetation where the slope of the ground is above a set limit;
- protection of vegetation within 30 metres of a watercourse; and

- protection of vegetation where the land may become unstable or subject to salinisation if it is cleared.

The guidelines vary between the various provisions outlined above. Guidelines for protection overlays are more tightly applied than those for the general native vegetation provisions.

These provisions provide a direct way in which a local government can regulate vegetation clearance within its planning scheme. It is useful in that it provides Statewide regulation through planning schemes.

Section 52.17 of the Victoria Planning Provision states that, in determining an application for clearing, the regional vegetation plan for the area should be considered by the council. These regional vegetation plans are currently being prepared by each Catchment Management Authority and must be formally approved before they can be considered.

Levies

A planning scheme may include *development contributions plans* which can provide for '(a) the imposition of a development infrastructure levy; (b) the imposition of a community infrastructure levy in relation to the development of land in the area to which the plan applies' (s46J). These are therefore limited to infrastructure levies and, as such, are unlikely to be of use to a council that wishes to impose an environmental levy. *It may be possible, however, to impose a community infrastructure levy to cover the cost of fencing a remnant area of native vegetation where that remnant needs to be protected from the impacts of an approved development* and there is a clear nexus between the need to fence the vegetation and the impact of the development. Section 46L also limits this by specifying the maximum amount that can be raised in this manner. Development contributions plans can also be prepared, and can include a development infrastructure levy as a condition on development approval (s46N). Money raised by levies must be managed by a local government in such a way that it is only used for the activities for which it was raised (s46Q).

Permits

A planning scheme may require that a permit be sought for specified uses or development of land or for subdivision of land (s47). Applications must be accompanied by the required information and, where a referral authority is specified in the planning scheme, that authority must be given a copy of the application (s55). A referral authority must consider all applications which are forwarded to it and must tell the responsible authority (usually the council which first received the application) whether it objects to the application, does not object if certain conditions are imposed, or does not object to the granting of the permit (s56). Other people who may be affected by the application if it were to proceed may also make written submissions to the council (s57). All submissions received must be considered by the council when making its decision. The council must also consider any decision or comments from the referral authority, and any significant effects on the environment flowing from the development. It may also need to consider strategic plans, policy statements, the social and economic impacts of a development, and any other relevant matter (s60). It is interesting to note that a council *must* consider any significant effects on the environment, however, it *may* consider the social and economic impacts only if required by the circumstances. Therefore, a council must consider the environmental impacts of an application but it has discretion as to whether or not it considers the economic affects.

In making its decision, a council may *grant the permit, refuse to grant it 'on any ground' or grant it with conditions.* If a referral authority objects to the granting of the permit, then the permit must not be granted (s61). In *placing conditions on a permit,* those conditions required by the referral authority or the planning scheme must be placed on the permit. Any other conditions[39] may also be placed on the permit, including that a management

39. For comments on the validity of conditions see Bryany, T, (1992) 'The validity of imposing development levies in Victoria under the *Planning and Environment Act 1987*', *Environment and Planning Law Journal* 9(6), December 1992: 411.

agreement be entered into under section 173, or a heritage agreement be entered under the Heritage Act (s62).[40] A permit, once issued, will be valid for a period of two years unless otherwise stated in the permit (s68), and the development must be commenced within that time.

Where land is owned by a responsible body (that is, a council), a permit must be obtained from the Minister before carrying out a use or development for which a permit is required under the planning scheme (s96).

The Act also provides that *a landholder has a right to compensation where land is required for a public purpose.* This has been extended so that an owner may claim compensation from a council for 'financial loss suffered as the natural, direct and reasonable consequence of a refusal by the responsible authority to grant a permit to use or develop the land on the ground that the land is or will be needed for a public purpose' (s98(2)). *This section may act to discourage a local council from declaring land for a public purpose where it will impact on other landholders, as this may leave it open to compensation claims.*

Management agreements

Section 171 outlines the powers of a responsible authority – generally a council, but where the responsible authority is the Minister, the Minister can delegate power to a municipal council (s190). All the powers necessary for the purpose of carrying out functions and duties under the Act or for carrying out the objectives of a planning scheme are granted to a council. *A council also has the power to enter agreements and to purchase and sell land, and has other powers as listed.* Section 173 further outlines the power to enter into agreements with a landowner. Such an agreement can deal with issues relating to the *'prohibition, restriction or regulation of the use or development of land'* and conditions relating to the development of the land and any other incidental matter. Once an agreement has been entered into, a copy must be lodged with the Minister (s179). The responsible authority can also apply to the Registrar of Titles to register an agreement (s181). *Once registered, the agreement is a covenant on the land, and it will bind successive landholders* (s182). This means that local governments are able to enter into management agreements relating to development control, which are binding on title.

5.3.2 *Urban Land Authority Act 1979*

The objectives of the Urban Land Authority Act are stated in section 4 and include providing allotments for development, facilitating the disposal of surplus land held by the Crown and public statutory bodies (including councils), and assisting in the implementation of State urban planning policies and major State projects. In order to do this, the Urban Land Authority is established (s3). The necessary powers are granted to the authority, including the power to sell land. Where land is sold, it may be subject to a covenant which binds the purchaser 'as to the manner and method of and the time within which the land will be developed or redeveloped or as to the manner in which the land will be used' (s14). This section may be used in order to enter a *covenant restricting the change of use of land. In particular, it may limit or restrict the clearance of native vegetation on that land. Such a covenant, if entered into, is registrable, and can be binding on title as an in perpetuity covenant* (s14).

The only way in which this Act is directly relevant to local government is through section 18, which allows the Urban Land Authority to enter into an arrangement with a council over the carrying out of work or the provision of a service facility.

5.4 *Other relevant legislation*

5.4.1 *Flora and Fauna Guarantee Act 1988*

Section 1 of the Flora and Fauna Guarantee Act clearly states that the purpose of the Act is to establish a legal and administrative structure to promote flora and fauna conservation, and to provide for a choice of procedures which would encourage and enable this process. The objectives of the Act reinforce the idea of introducing

40. See the following discussion on management agreements and the Heritage Act.

incentives, with section 4(1)(f) stating that the flora and fauna conservation and management objectives of the Act are:

> to provide a program:
>
> i. of community education in the conservation of flora and fauna;
>
> ii. to encourage co-operative management of flora and fauna through, amongst other things, the entering into of land management co-operative agreements under the *Conservation, Forests and Lands Act 1987*; and
>
> iii. of assisting and giving incentives to people, including landholders, to enable flora and fauna to be conserved…

This clearly indicates a recognition of the need for incentives to encourage vegetation conservation.

The Act is to be administered by the Director-General as established under the Conservation, Forests and Lands Act (s7).

The Act allows for the *listing of threatened species and potentially threatening processes* (s10). To be eligible for listing, the species must be 'in a demonstrable state of decline which is likely to result in extinction or…significantly prone to future threats which are likely to result in extinction' (s11). Once listed, a species is then treated as a threatened species under the Act.

The Director-General is responsible for preparing a *Flora and Fauna Guarantee Strategy* stating how the flora and fauna conservation and management objectives are to be achieved (s17). The Director-General may also make a management plan for any species or community of flora, or for a potentially threatening process (s21). A *management plan must be prepared in consultation with any landholder or water manager whose interests may be directly and materially affected by the plan* (s21). Public notice of a draft management plan must be given and a period for submissions allowed. The Director-General may also enter into an agreement with a public authority (including a local government) for the management of a threatened species or community, or for the management of a potentially threatening process (s25). *It may be possible for the Director-General to use this agreement process to encourage local governments to actively manage their land for vegetation conservation.*

Interim conservation orders (ICO) can be issued by the Minister to conserve the critical habitat of a listed species on Crown or private land (s26). An ICO can provide for the prohibition of any activity or use of the land in question (s27). Such an order will operate for a maximum of two years (s32) and is, therefore, a potentially powerful order. As soon as possible after the making of an interim conservation order, the Director-General must notify the relevant planning authority (s37). Any permit or licence which would allow a person to act contrary to an ICO, such as development approval for the clearing of vegetation, may be revoked by the Minister after consulting with the body who issued the licence (s38). Where there is a conflict between an ICO and a planning scheme, the order will prevail (s39).

These provisions appear to make ICOs an attractive and useful mechanism for the protection of threatened flora. Section 43, however, enables a landholder or water manager to seek *compensation for financial loss* 'suffered as a natural direct and reasonable consequence of the making of an ICO' (s43(i)). The holder of a licence or permit, which is suspended by the Minister under section 38, can also seek compensation. This extends to cover the costs associated with seeking compensation. The compensation is to be paid by the Director-General (s43).

The Act is similar to other threatened species legislation, as it creates offences relating to the taking, keeping or trading of protected flora without a licence or permit (s47). Where a person is found guilty of an offence, they may be required to carry out restoration work to the site (s61) or pay compensation to the Director-General (s62).

5.4.2 *Alpine Resort (Management) Act 1997*

The Alpine Resort (Management) Act amends the *Alpine Resorts Act 1983*, and entered into force on 30 April 1998. The main changes that have been made relate to the establishment of an Alpine Resorts Co-ordinating Council and Alpine Resort Management Boards.

The Alpine Resort (Management) Act established the Alpine Resorts Co-ordinating Council and Alpine Resort Management Boards (ss1 and 34) to carry out the land use and planning functions of a local government within the alpine regions of Victoria. The Alpine Resort Management Boards are established as committees of management under the Crown Land (Reserves) Act (s4), and are a municipal council for the purpose of the Planning and Environment Act (s5). This is a very broad grant of power to these bodies. It acts to remove any areas constituting an alpine resort under the Act from the control and jurisdiction of the local government in the area. This is confirmed by section 21, which states that 'all Crown land in alpine resorts shall be deemed to be Crown lands permanently reserved as alpine resorts', however, section 46 of the Planning and Environment Act does not apply. While section 46 of the Planning and Environment Act provides that a planning scheme may apply to Crown lands, section 21 of the Alpine Resort (Management) Act excludes this section. The result is that a planning scheme will not apply to alpine resorts. In addition, section 68 specifically states that any land which is in an alpine resort is deemed not to be part of any municipal district within the Local Government Act, and cannot be added to a district.

The Alpine Resorts Co-ordinating Council is established under section 14. Its role includes providing recommendations to the Minister relating to the provision and improvement of services and facilities in alpine resorts, and the promotion of resorts and attraction of investment to improve the resorts (s18).

The Alpine Resort (Management) Act removes areas of alpine Crown land and declared alpine resorts from the control of municipal councils. Councils may still be involved in the provision of services on a contractual basis, but land use and planning responsibilities are removed and vested in the Alpine Resorts Commission.

5.4.3 *Catchment and Land Protection Act 1994*

The objectives of the Catchment and Land Protection Act are stated in section 4 as being:

(a) to establish a framework for the integrated and co-ordinated management of catchments which will:

- maintain and enhance long-term land productivity while also conserving the environment; and
- aim to ensure that the quality of the State's land and water resources and their associated plant and animal life are maintained and enhanced…

This obviously will have some impact on the management of native vegetation in Victoria.

The Act establishes a Victorian Catchment and Land Protection Council (s6), whose functions include facilitating the operation of Regional Catchment and Land Protection Boards (s8). The Governor in Council may make an order under the Act declaring areas to be catchment and land protection regions (s10), and a Regional Catchment and Land Protection Board can then be established for that region (s11). Victoria has been divided into 10 regions, 9 of which have Catchment Management Authorities which have succeeded the Catchment and Land Protection Board. One region still has a Catchment and Land Protection Board. The board should have a member with experience and knowledge of local government (s12). Section 13 outlines the functions of these regional boards, which include preparing a regional catchment strategy and coordinating and monitoring its implementation.

Section 20 imposes an obligation on landowners to take 'all reasonable steps to: (a) avoid causing or contributing to land degradation, which causes or may cause damage to the land of another landowner'.

The Act provides for regional catchment strategies. A *regional catchment strategy* must, among other things, '(b) assess the nature, causes, extent and severity of land degradation of the catchments in the region and identify areas for priority attention…' (s24(2)(b)). A strategy may also *provide for land use planning and incentives for better land management* (s24 (3)). Once a Regional Catchment and Land Protection Board or Catchment Management Authority has prepared a catchment strategy, *it can recommend to the planning authority, usually a local council, amendments to a planning scheme to give effect to the strategy* (s25). Section 26 further provides that:

> In carrying out a function involving land management:
>
> a. on behalf of the Crown; or
>
> b. under an Act – a Minister or public authority must have regard to any regional catchment strategy applying to the land.

This section could greatly reduce the options available to a local government in assessing a development application. For example, if an application was received for an area and the regional strategy included a recommendation prohibiting any change in the use of the land, the council, in assessing the application, would have to consider this recommendation and would be less likely to approve the development. Clearly, this could be of great assistance if vegetation management and conservation of native vegetation were included within the strategy. However, it may also work in the opposite way, reducing the likelihood of a local government imposing stricter requirements when a development would be allowed under the regional strategy.

A board may recommend to the Minister that certain land be declared a special area (s27). This, if successful, allows for the development of a special area plan, which may specify the most suitable land uses for that area (s30). As with regional catchment plans, the board or Catchment Management Authority can recommend changes to a planning scheme (s31), and a public authority must have regard to the plan when undertaking land management activities (s32). A special area plan may also allow for a document outlining land use conditions to be served on the landowner (s33). Such conditions are binding on the landowner on whom they have been served (s34). It is an offence to disobey such a condition (s35), however, it is possible for a landowner to request that it be revoked (s36).

This Act reduces the autonomy of local governments in regard to catchment management, as regional catchment plans must be included as an additional consideration within a planning scheme.

5.4.4 *Coastal Management Act 1995*

The Coastal Management Act also provides an extra layer of control. It aims to provide for coordinated and strategic management of the Victorian coast, to provide for the preparation and implementation of management plans for coastal Crown land, and 'to provide a co-ordinated approach to approvals for the use and development of coastal land' (s1). It is narrower than the Catchment and Land Protection Act in operation, as it applies only to coastal Crown land. Coastal Crown land is defined as any land reserved under the Crown Land (Reserves) Act and Crown land within 200 metres of the high water mark of the coastal waters or any sea (including bay, inlet, estuary and any waters within the ebb and flow of the tide) within the boundaries of Victoria (s3).

Under this Act, 'development' is defined to include 'works', which itself 'includes any change to the natural or existing condition or topography of land including the removal, destruction or lopping of trees and the removal of vegetation or topsoil' (s3).

The Act aims to 'protect and maintain areas of environmental significance on the coast including its ecological, geomorphological, geological, cultural and landscape features'. This and other objectives are stated in section 4.

The Victorian Coastal and Bay Management Council is established under the Act (s6). It is to undertake Statewide strategic coastal planning, to advise the Minister on coastal planning issues, 'prepare and publish guidelines for the planning and management of the coast', and 'to liaise with and

encourage the co-operation of…Municipal councils…involved in the planning, management and use of the coast in furthering the objectives of this Act' (s8).

The coast of Victoria can be divided into coastal regions (s9) and a Regional Coastal Board appointed for each region by the Minister (s10). The functions of these boards are outlined in section 12 and include developing coastal action plans for the region, advising the Minister and the Victorian Coastal and Bay Management Council on coastal development, and liaising with and encouraging municipal councils in planning and management for developing and implementing strategic solutions for the conservation and use of the region's coast.

The Act also requires the development of a Victorian Coastal Strategy by the council to 'ensure the protection of significant environmental features of the coast', and to provide direction for the future sustainable use and development of the coast (s16). This strategy must be subject to public notification prior to endorsement by the Minister and tabling in Parliament (s19). Once the strategy has been approved, the Minister, council or committee of management of reserved Crown land must take all reasonable steps to give effect to the strategy (s21).

Coastal action plans can also be prepared by Regional Coastal Boards. Again, they must be endorsed by the Minister, and a municipal council must take all reasonable steps to give effect to the plan (ss22–29). *Approved management plans can be prepared for areas of coastal Crown land, and these too must be put into effect by local government* (ss30–36). The Act further provides that *coastal Crown land cannot be used or developed without prior written consent from the Minister* (s37). It may be that where a local council is the planning authority for a region, the planning scheme may require that the council refer an application for development of coastal Crown land to the Minister for approval (s38).

This Act again reduces the independence and role of local government in coastal areas. It does, however, apply only in respect of coastal Crown land, and not privately owned coastal land.

The land use and planning responsibilities of a council in respect of Crown land are subject to various plans and strategies developed under the Act. They allow a council to refer an application to the Minister for approval, with councils merely acting in accordance with the strategies under the Act.

5.4.5 *Conservation, Forests and Lands Act 1987*

The Conservation, Forests and Lands Act aims 'to provide a framework for a land management system and to make necessary administrative, financial and enforcement provisions; to establish a system of land management co-operative agreements…' (s1). It does this primarily through the Director-General of Conservation, Forests and Lands, who is granted certain powers under the Act, including the power to enter land management cooperative agreements.

The Act outlines several types of activities, which cannot be undertaken without a plan for the work being submitted by the public authority or local council to the Director-General for comment and advice (s66). These activities include work requiring the disturbance of soil or vegetation above 1 220 metres in altitude, construction of dams or other structures in or across waterways which potentially interfere with the passage of fish or the quality of the aquatic habitat, and the carrying out of a development within a critical habitat listed under the Flora and Fauna Guarantee Act (s66 and Schedule 3). It is an offence for the public authority to then act contrary to such advice unless there is no prudent or feasible alternative (s67).

Land management agreements can relate to 'the management, use, development, preservation or conservation of land in the possession of the land owner or otherwise to give effect to the objects or purposes of a relevant law in relation to land in the possession of the land owner' (s69). The Director-General, with the approval of the Minister, can grant or lend money to a landowner, or provide other assistance with such conditions as approved by the Minister 'to encourage land owners to follow good land management practices or otherwise to give effect to the objects or purposes of a relevant law' (s68). These agreements can easily be used to

encourage vegetation conservation. They can contain terms which *restrict the use of the land, require the landowner to refrain from certain activities which may adversely affect the land,* require the landowner or Director-General to carry out specified works for the management and conservation of fauna or provide financial assistance, and can include a requirement for the Director-General to pay the landowner either part or all of the amount of *rates* payable in respect of the land (s70). Such an agreement is binding on and enforceable by the Director-General and the landowner. It may also be stated to be binding on the landowner's successors in title and, as such, will be registered on title as an *in perpetuity agreement* (ss71–72). These agreements are therefore similar to and have the same effect as a binding covenant and can only be revoked by an order of the Supreme Court (s72).

As well as providing for financial assistance within the agreement, section 75 is included to refer specifically to *rate relief.* Section 75 states that, if under the terms of an agreement 'a land owner is required to preserve land in its natural present state and in the Minister's opinion it is not economically feasible to do so unless rate relief in respect to the land is provided, the *Minister may recommend to a rating authority that the whole or part of the rates payable in respect to the land be remitted'.* The Minister may then reimburse the amount of rates to the rating authority (s75). This would encourage local government to provide rate rebates as they can do so under this Act without decreasing their income from rates.

5.4.6 *Crown Land (Reserves) Act 1987*

The Crown Land (Reserves) Act deals with the provisions relating to reserving of Crown land for public purposes. Public purposes include the 'preservation of areas of ecological significance', 'the conservation of areas of natural interest or beauty' and 'the preservation of species of native plants' (s4(1)). Land which is currently owned by the Crown could be reserved for vegetation conservation. Alternatively, the Minister may purchase the land for reservation as Crown land for a public purpose. In compulsorily acquiring land, the provisions of the Land Acquisition and Compensation Act will apply (s5).

The reservation of land under the Act, can be reversed by the Governor in Council, with a notice published in the Gazette (s10). Land is reserved by the Minister (s4) after public notice has been given of the proposal, or the Governor in Council may order land to be reserved under the Act (s4).

Regulations can be made in respect to land reserved under the Act, in particular relating to the care, protection and management of the land (s13). A committee of management can be appointed for a reserve by the Minister (s14) and can consist of a municipal council, or three or more people. A *committee of management, once appointed, is under a duty to 'manage, improve, maintain and control the land for the purpose for which it is reserved* and for that purpose may employ officers servants and workmen…' (s15). A local government can also have land vested in it by the Governor in Council, on trust, for the purpose for which the land was reserved (s16). There does not, however, appear to be provisions in relation to funding arrangements for a committee of management. This means that councils may be expected to fund committee of management expenses from their own resources.

A management committee can grant licences to enter and use land in accordance with the purpose for which it was reserved, as well as enter into agreements for the provision of services (s17). The Act specifies further provisions for leases and licences for acts not consistent with the objectives for the reservation of the reserve.

The management and control of land under the Act can be, on the recommendation of the Minister, vested by the Governor in Council in the Director-General of Conservation, Forests and Lands, or another similar body. Such an order will override other orders in relation to the management of that land (that is, ss13–17). This is likely to be invoked where, for example, the appointed management committee is not controlling the use of, or managing the reserve in a manner consistent with the objectives for, the reserve under the Act.

5.4.7 *Forests Act 1958*

The Forests Act applies to the State forests of Victoria. The Act prohibits the cutting or removal of timber or any forest produce within State forests (s7) unless under a permit or licence issued in accordance with the Act. The *control and management of State forests is vested in the Director-General* (s18), and areas under the control of an authority under the Water Act can also be vested in the Director-General for management purposes (s19). The Director-General of Conservation, Forests and Lands must prepare a *working plan* for those areas under his control. The plan must address issues such as maintenance, improvement, protection from fire and the removal of forest produce (ss22D–G).

Areas of Crown land not currently declared to be part of a State forest can be dedicated as a reserved forest by the Governor in Council on the recommendation of the Minister. Areas of privately owned land may be acquired by the Governor in Council with the authorisation of Parliament, and may then be dedicated as reserved forest. There is, however, a maximum of $3 million which can be spent in this way per financial year, unless Parliament expressly authorises the purchase of more land (ss47–48).

Where land is dedicated as a *reserved forest,* the Governor in Council can declare it to be a flora reserve, State park, roadside reserve, or otherwise as stated in section 50. *A municipal council or other body may be appointed as the management committee or the advisory committee to a reserve by the Minister* (s50). Regulations can also be made under section 50 concerning the use and activities, which may be undertaken in that reserve. Reserved forests can be leased subject to conditions (s51), and licences and permits must be sought for the grazing of stock and the taking of farm produce (s52). It is only when appointed as a management or advisory committee that a municipal council will have any responsibility under the Act.

Unoccupied Crown land may alternatively be proclaimed as a *protected forest* by the Minister (s58). Any tree or class of tree can be declared a *reserve tree* or *reserved class of tree* (s60). A licence or permit is required to injure, remove or destroy any growing tree or timber which is reserved under section 60 (s59).

Where Crown land is not part of a State forest or National Park, it is possible for that land to be declared *protected public land* by the Governor in Council. Section 62 states that ‘it shall be the duty of the Director-General to carry out proper and sufficient work for the prevention and suppression of fire in every State forest and national park and on all protected public land…’ A private landowner within 15 kilometres of the boundary of a State forest can have written notice served requiring the removal or abatement of a fire hazard on that land (s65). Failure to comply with a notice is an offence (s68).

The Forests Act is primarily within the jurisdiction of the State, and the role of local governments under the Act is minimal. It is only through the appointment of a council as the management or advisory committee for a reserved forest that a council will have responsibility for land covered by the Act. This would, however, be unlikely because State forests are generally managed by the State for timber products. The only other way in which this Act may impact on the management of native vegetation by a council is where a council owns and manages land within a 15-kilometre radius of a State forest. This land must be managed so that there is no risk or fire hazard, which may potentially affect areas of State forest. This may be in conflict to the conservation requirements for the vegetation in that area.

5.4.8 *National Parks Act 1975*

The objectives of the National Parks Act are to make provisions in respect of national parks, State parks and wilderness parks for the protection and preservation of the natural environment, including the indigenous flora and fauna (s4). The Act establishes the position of the *Director of National Parks* (s5), *who has responsibility for the management of parks under the Act.* National parks and State parks must be managed in accordance with the objectives of the Act, and they are also to be managed in a manner that will ‘preserve and protect indigenous flora and fauna in the park’

(s17(2)(ii)). *Management plans must be prepared for each park. Wilderness parks* must also be managed in accordance with the objectives of the Act, and this includes taking measures '(a) to preserve and protect (i) the natural environment including indigenous flora and fauna features of ecological, geological or scenic significance…' (s17A(2)(a)). Management plans must also be prepared in respect of wilderness parks (s17B). Other parks listed in Schedule 3 must also be managed by the Director in accordance with the objectives of the Act, and in a manner that is appropriate to the park to 'preserve, protect and re-establish indigenous flora and fauna' (s18(2)(a)).

Where land is owned by the Trust for Nature (Victoria), section 19A provides that the Minister may enter into an agreement with the trust for that land to be managed by the Director. Such land is to be managed as if it were a park under the Act. This avoids the requirement for the trust to ensure the ongoing management of land, and therefore enables the trust to direct more energy to the acquisition and protection of other land of conservation value.

Similarly, land which is temporarily or permanently reserved under section 4 of the Crown Land (Reserves) Act can also be managed and controlled by the Director. Land, which is vested in or controlled or managed by a public authority, including a council, may, by agreement, be managed by the Director (s19C). Again, the land is to be managed as though it were a park under the Act.

The National Parks Act contains few sections of importance to local governments. The only relevant section may be section 19C, which *allows councils to enter an agreement with the Minister for the Director to manage land owned by a council.* Such land would then be managed in accordance with the objectives of the Act, which include management for the preservation and conservation of native vegetation.

5.4.9 *Water Act 1989*

The Water Act concerns the supply of water and the protection of water sources, the issuing of licences for the use of water, and the establishment of water authorities. Section 64A provides for the development of a water resource management plan. Licences sought under the Act to undertake works or for the use of water can contain conditions regarding the protection of the environment and, in particular, the riparian (riverbank) environment. The Minister can appoint a water authority for a particular area. Where this is to be done, it is necessary to obtain the approval of the local council in whose jurisdiction the authority will operate (s100). This is because the authority is responsible for the issuing of licences and will control and manage land associated with the water source in that region. In addition, where land is under the control of a water authority, the Minister may declare that area to be an environmental area or a recreation area (s107). If this is done, *the water authority then has the power to make by-laws for the area concerning specified things, including the conservation and preservation of the flora and fauna of the area* (s107). Section 131 allows Crown land to be placed under the management and control of any authority under the Act and, therefore, allows for by-laws to be made for these areas.

At the date the Act was passed (5 December 1989), there were 172 authorities under the Water Act. These authorities were responsible for irrigation districts, sewerage districts, waterway management districts and water districts. These would effectively cover large amounts of land within the jurisdiction of local governments and, therefore, *remove certain aspects of the management of this land, which impacts on water management from local government.*

5.4.10 *Environment Effects Act 1978*

The Environment Effects Act requires that special consideration be given to the effects on the environment. The Minister may require an Environment Effects Statement for development proposals capable of having a significant effect on the environment, and this may include the effects on vegetation.

5.4.11 *Environment Protection Act 1970*

The Environment Protection Act is similar to environmental protection legislation in other States, which concerns the granting of development approval to certain 'scheduled' activities or land uses. The Act establishes the Environment Protection Authority (s5) which, under section 13, is responsible for issuing works approvals, licences and permits, and imposing and collecting an environment protection levy in accordance with the Act (s24A). *The Act is only relevant in regard to the listed uses of land,* such as sewage treatment works, chemical storage facilities and timber treatment works, and deals mainly with waste disposal, water and air pollution and land reclamation issues when environmental impact assessment procedures must be followed prior to the granting of development consent.

5.4.12 *Heritage Act 1995*

The Heritage Act *primarily concerns areas which are of cultural significance* (it does not appear to extend to areas of natural or environmental heritage except where they are culturally significant, for example, memorial avenues of trees, which could be registered). It is, however, relevant to vegetation conservation as *it defines the removal of any vegetation on a site listed under the Act as 'work'.* 'Works' on listed sites need the *approval of and a permit issued by the Heritage Council.* In addition to requiring a permit to remove vegetation, a place, once listed on the register, will have this noted on the title, and the Minister must prepare and approve an amendment to the planning scheme to reflect the presence of a listed place on the Heritage Register. The Act also allows for the owner of a registered place to enter into a *covenant with the Heritage Council.* These covenants bind the owner as to '(a) the development or use of the place or land on which the registered place is situated; or (b) the conservation of the place and any registered object at that place' (s85(1)). Alternatively, an owner can enter into a *binding covenant with the National Trust* (s86). *A covenant of either type can be registered on title and will run with the land as a covenant in perpetuity* (ss91–92).

Where a place is listed, this will override the controls, which a local government may exercise under its land use and planning powers. The Act requires that a planning scheme be amended to take account of a listing on the Heritage Register. In this way, the State is overriding a local government.

5.4.13 *Land Act 1958*

The Land Act concerns the *sale and occupation of Crown land.* It allows for the acquisition of land for a public purpose and the reservation of that land under the Crown Land (Reserves) Act (s12A). Similarly, the Act allows the Minister to sell land to a public authority, including a council, if that authority requires the land for a public purpose (s99).

Crown land can be *leased* for agricultural purposes on such terms, conditions, covenants and exceptions as the person granting the lease thinks fit (s121). The Act also specifically allows for a *condition for the retention or clearance of native vegetation* (s124(K)) or the clearing of land (s130AC).

Section 181 allows the Governor in Council to proclaim any Crown land to be a *common* and to place it under the management of the municipal council. A council would then be able to manage that area for the conservation of native vegetation.

The Land Act provides a way in which a council may be appointed the manager of Crown lands which are proclaimed a common. It also allows the Minister to sell land to a council for a public purpose. *If vegetation conservation were considered to be a public purpose, then this Act would provide the way in which a council could manage Crown land for the conservation of its vegetation.*

5.4.14 *Land Conservation Act 1970*

The Land Conservation Act deals primarily with *the management and conservation of public land.* It is of little relevance to local government, as public land is defined to be land within certain metropolitan municipal areas, which is unalienated Crown land and vested in a public authority other than a municipal council (s2). Such land is managed by the Land Conservation Council (s3), which is to

advise the Minister as to the management of the land (s5). In doing so, the Land Conservation Council must have regard to the 'preservation of areas, which are ecologically significant…, the preservation of species of native plants…' and other factors listed in section 5.

5.4.15 *Reference Areas Act 1978*

The Reference Areas Act works to conserve certain areas as a point of reference for other areas of the same ecological community. Section 3 states that where the Minister is of the opinion that:

> any area of public land should be preserved in its natural state as far as is possible because the area is of ecological interest and significance, he may recommend to the Governor in Council that the area be proclaimed to be a reference area.

The Governor in Council can proclaim an area to be a reference area by notice in the Gazette. The Minister can then publish directives for the protection, control or management of the reference area (s6). However, except as provided for in a directive, 'the declaration of an area to be a reference area will not affect the exercise of any rights, powers or duties by any person or body which is responsible for the protection, control or management of the land or the reference area' (s7). When considering management issues and the making of a declaration, the Minister will act on the advice of a committee established under the Act (s5), and the advice of the Land Conservation Council, when declaring an area to be a reference area (s3). This Act is relevant to local governments where they have control and management of public land.

5.4.16 *Victorian Conservation Trust Act 1972*

The *Victorian Conservation Trust* is established under section 2 of the Act. The objectives of the trust are stated in section 3 as the encouragement and assistance of the preservation of wildlife and native plants, and the preservation of areas which are ecologically significant or of natural interest. The trust has the 'power to do all things that are necessary or convenient to be done for or in connection with the carrying out of the objects' (s3(2)). This includes the *power to hold, buy and sell real property, and the power to enter a binding covenant with a landholder.* A covenant can be entered only with the *Minister's approval,* and can *bind the landowner* 'as to the development or use of the land or any part thereof or the preservation or care of any bushland trees, rock formations…' (s3A(1)). Once notice of the proposed covenant has been sent to the Minister and published in the Gazette, the covenant can be registered on title, and will be binding on successive titleholders (s3A).

The use of this power by the trust is one way areas of high conservation significance can be protected. They can be *purchased by the trust,* and then managed by the National Parks Service under the National Parks Act, or a *covenant* can be entered on title restricting the use of the land, and even specifically preventing the clearing of certain vegetation, and the land then sold. Areas of land owned by local governments could also be managed in this way, so that they would be permanently protected for conservation.

There is no formal role for local government, although the trust in recent years has sought to increase its involvement and cooperation with local government.

5.5 Summary of opportunities

The position in Victoria in relation to the incentives, which may be offered by a local government, is summarised in the table below. In many instances, clarification of the existing legislation, or a minor amendment, for example, to a definition within legislation, is all that is required to allow the full range of incentives to be available.

The table also includes reference to local laws. This has been included, as it is another way in which local governments can act to protect native vegetation on council owned or managed land. In this way, local governments can offer incentives to landholders and lead by example in the management of land in their control.

Table 5.2: Opportunities available to local governments to offer incentives for vegetation conservation

Incentive	Amendment
Environmental levy	Amend definition of service in the Local Government Act (s162) to include environmental services, or pass regulation defining the environment as a service for the purpose of section 162 Revenue raised through environmental levies should not be subject to rate capping
Management agreement	Policy support/encouragement
Covenant	Include provisions similar to those within the Victorian Conservation Trust Act in the Local Government Act to allow a local government to enter into a covenant with a landholder
Grants to individuals and community groups	Clarify that vegetation conservation is within the functions or power of local governments
Rate rebates	Encourage use of rebates and concessions under the Local Government Act (s169) Extend exemption from municipal charges from farm land to include conservation land
Acquisition and sale of land	Not applicable as council can buy and sell land
Local laws	Encourage local governments to pass local laws protecting native vegetation on council owned or managed land