

Review of the Flora and Fauna Guarantee Act 1988 – Consultation Paper

Trust for Nature's submission

Trust for Nature background

Trust for Nature is a statutory body established in 1972 under the *Victorian Conservation Trust Act* to conserve flora and fauna and significant habitats on private land. Since its establishment, Trust for Nature has helped landowners to establish more than 1,300 in-perpetuity conservation covenants over their land securing significant native vegetation and contributing over 59,000 hectares to Victoria's protected area estate. Trust for Nature also owns 44 conservation reserves, totalling over 35,000 hectares of natural habitat on private land.

Trust for Nature occupies a unique space within Victoria's nature conservation sector for the following reasons:

- Its main focus is the permanent protection and ongoing stewardship of natural areas on private land across Victoria;
- it operates statewide and thus provides a statewide perspective on biodiversity and natural resource management issues on private land;
- it has prepared a statewide conservation plan for all private land in Victoria which underpins its conservation work and provides an integrated framework for the Trust's planning and operations across Victoria;
- it is legislated to provide specific functions to support conservation of ecologically significant areas and flora and fauna across Victoria;
- its protected areas already support populations of 69% of threatened fauna and 49% of threatened flora species identified as priorities for conservation private land (Trust for Nature 2013);
- its conservation covenants and reserves are recognised as formal protected areas which contribute to the national reserve system and the global network of IUCN protected areas.

It is in this context that we provide input into the Flora and Fauna Guarantee Act Consultation Paper.

General feedback on potential improvements and the potential role of a revised Act

Trust for Nature supports all of the proposed functions of the revised Act, as outlined on p. 32. As we have discussed with the review team, we believe that there is an additional, important opportunity through this review to widen and strengthen the proposed statutory controls over designated critical habitat to ensure that the threatened species and communities are securely protected and conserved in the long-term. This would not only assist with securing the long-term protection of critical habitat for listed species but also assist with the Victorian Government's contributions to national and international protection commitments. We provide more detail on these suggested improvements under section 4.4.

Trust for Nature also suggests that there should be more clarification of how the revised Act will apply and be enforceable with regards to private land, as this has not been clear to date. We offer more feedback regarding this issue under section 4.4.

Feedback relating to 4.2: co-ordination and integration across government

Trust for Nature is supportive of the proposed changes listed in Table 10, particularly with regards to clarifying and strengthening the existing duty on public authorities and government departments to manage their land in accordance with the objectives of the Act.

Under potential improvement 2 in Table 10 we suggest that additional clarification is required around leasehold land-managers (for example Hancock Victoria Plantations leasing State Forest) in terms of their potential obligations as public land managers.

Under potential improvements 4, 5 and 7, we suggest that where the land managed or owned by a public authority or government department is designated as 'critical habitat' (see 4.4), it should be securely protected in the long-term to help guarantee the persistence of that species or habitat. This proposal is based on research findings demonstrating the effectiveness of protected areas in maintaining or improving the population trends of nationally threatened species, compared to unprotected areas (Taylor *et al.* 2011; Woinarski *et al.* 2013).

This additional level of protection could be obtained through existing mechanisms (e.g. s69 agreements or conservation covenants) for freehold land. For land where no such mechanism exists, we note an option for additional protection powers. Some useful models for this approach exist in English and European Union nature conservation laws and policy (e.g. England's approach to the protection of Sites of Special Scientific Interest (SSSIs) and the EU's designation and protection of sites as part of the Natura 2000 network).

Feedback relating to 4.3: strategic approaches to biodiversity planning and species listing

Trust for Nature notes the planned change to landscape or area planning to implement recovery actions for species that occur in the same landscape and are generally subject to the same ecological processes and threats. We recognise the efficiencies and effectiveness of this approach where there are geographic concentrations of threatened species and communities, identified through strategic planning approaches such as DELWP's Strategic Management Prospects modelling or Trust for Nature's Statewide Conservation Plan.

We note that there is also the risk of simplifying the often complex and specific needs of each listed species such that the aggregated actions for multiple species at a landscape scale may not assist any of them effectively. An additional approach might be to consider species with similar ecological needs and then prepare broader recovery plans for that group of biota (as done recently for the Threatened Mallee Bird community).

On p. 50 in Box 4 where it refers to Trust for Nature, we suggest clarifying that our statutory role includes landowner agreements registered on title with the approval of the Minister to permanently protect natural areas on private land, and the acquisition/donation of land that is then managed for conservation purposes. These statutory functions and the permanent nature of our agreements distinguish our role from that of other public agencies, while acknowledging that Section 69 Agreements under the CFL Act have similar powers.

Trust for Nature supports all of the planned improvements in Table 13.

Feedback relating to 4.4: habitat protection and regulation

Trust for Nature supports the potential improvements listed in Table 14 to the definition, identification and formal designation of critical habitats.

Referring to Point 1 we support the proposed improvement to broaden the concept of 'critical habitat' to include areas critical for maintaining ecological processes. We note that this broadened concept might potentially encompass substantial landscapes in some parts of the State, for example the Volcanic Plains, the Northern Plains or the Habitat141 Wildlife Corridor. If so, this designation could then be one of the triggers for the biodiversity response planning suggested under 4.3.

Referring to Point 1, our further view is that this broadened concept should also include key habitat areas which are critical or important for the survival of species or communities¹.

Under point 2, it is unclear if this process is intended to lead to formal designation or declaration of the 'critical habitats'. We understand that this is the intention but believe this point needs to be clarified.

In regards to points 3 and 4 of Table 14, the text on pp-55-57 is unclear as to whether the proposed changes to 'critical habitat' and proposed regulatory reforms will apply. This is important to do so because, as noted on pp, 55-56 the native vegetation regulations are not sufficient to protect all natural areas on private land.

Under point 4, we agree that all reasonable steps should be taken to enter into voluntary land management agreements with owners of land containing declared critical habitat.

Under point 5, we support the potential improvement to enable the illegal removal of native vegetation which forms part of a species' critical habitat to be enforced under the FFG Act.

References

Taylor, M.F.J. *et al.* (2011b). What works for threatened species recovery? An empirical evaluation for Australia. *Biodiversity Conservation* 20: 767-777.

Woinarski, J.C.Z. *et al.* (2013). The effectiveness of conservation reserves: land tenure impacts upon biodiversity across extensive natural landscapes in the tropical savannahs of the Northern Territory, Australia. *Land* 2: 20-36.

¹ For possible criteria to identify critical habitat under this broadened definition, refer to the National Reserve System program's criteria for a Comprehensive, Adequate and Representative Reserve System, and the European Union and English conservation approaches for Natura 2000 and SSSIs respectively.