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

Thank you for the opportunity to comment on the 'Review of the *Flora and Fauna Guarantee Act 1988* Consultation Paper' prepared by DELWP that aims to improve the operation of the Victorian *Flora and Fauna Guarantee Act 1988* (the Act). Zoos Victoria acknowledge that implementation of the Act has not operated as intended, therefore we support efforts to strengthen its regulatory powers, operation, implementation and compliance. Nevertheless, we strongly support the original intent of the act and believe several elements are important to retain, as discussed below.

The feedback provided in this correspondence has been prepared by our Wildlife Conservation & Science team, understanding that the Act is a key part of Victoria's legislation to protect our biodiversity, support functioning ecosystems, and provide a guarantee to secure a future for Victoria's threatened flora and fauna.

The feedback provided in this review is reflected in the following subsections:

1. *Key recommendations supported*
2. *Critical inclusions in the Act to retain*
3. *Single-species vs landscape-scale approaches*
4. *Assessments and listings under the Act*
5. *Modifications to Action Statements*
6. *Accountability & transparency*
7. *Further clarification*
8. *Alignment with global governance approaches*

Zoos Victoria supports the approach to improve the links between the Act, Victoria's Biodiversity Plan and Native Vegetation Clearance Regulations, believing that this series of coordinated mechanisms will significantly improve our ability to conserve biodiversity through improved management.

1. *Key recommendations supported*

We support the majority of recommendations set out in the Consultation Paper, including:

- the nine key roles outlined on p. 32-33;
- the development of state-wide biodiversity targets (against which progress can be measured in a quantitative manner);
- greater focus on threat mitigation at a landscape scale to reduce the number of species that become threatened/ maximise benefits to multiple species;



- the following principle listed on p.38:

'Primacy of prevention – to ensure appropriate weight is placed on preventing harm and avoiding impacts to biodiversity over the minimisation or mitigation of impacts.'

- independent evaluation of progress every five years, with the report made publicly available;
- recognition of the important role and contribution Traditional Owners can make towards biodiversity conservation;
- explicit recognition of the need for strategies specifying how we will respond to risks and challenges presented by climate change (p. 48);
- an independent Scientific Advisory Committee to make recommendations to the Minister on listings and related matters;
- measures to achieve greater compliance with the Act and stronger enforcement penalties.

2. Critical inclusions to retain

We believe that it is important to retain key elements of the Act that support its original intent and remain critical to achieving successful outcomes for Victoria's biodiversity.

- the use of the term 'guarantee' which captures that intent of the Act when it was developed
- the following objectives of the Current Act listed in Box 1 on p. 20:
 - a. To guarantee that all taxa of Victoria's flora and fauna other than the taxa listed in the Excluded List can survive, flourish and retain their potential for evolutionary development in the wild; and*
 - c. To manage potentially threatening processes; and*
 - e. To ensure that the genetic diversity of flora and fauna is maintained.*

3. Single-species vs landscape-scale approaches

Zoos Victoria believes it is essential to concurrently address the needs of endangered species whilst endeavouring to mitigate key threats to halt additional species slipping into endangered categories. The two approaches are complementary and we can achieve both. Moreover, we have the capacity, expertise and ability to achieve both. It is critical that the Victorian Government maintain, and where required increase, conservation efforts for those species that are already classified as endangered and critically endangered. This is both an important objective in conserving biodiversity, and also an expectation of the Victorian community, as stated on p.14, highlighting state level protection for threatened species is important as it is:

'responding to community expectations that biodiversity has intrinsic value and species will not be lost from Victoria.'

Sections of the Consultation Paper reflect this need for single-species focus. Page 37 of the paper states:



'Preventing extinctions will remain a priority for the government. The revised objectives would continue to support conservation efforts for the most endangered species. The Biodiversity Plan will include a specific biodiversity target to provide a safety net for the most endangered species.'

Conversely, the following paragraph on p. 36 as well as other sections the paper describe two discrete and alternative approaches.

'The objectives include an explicit guarantee for all species to survive and flourish in the wild. While this objective provides an aspirational and visionary goal, it may not support the opportunities presented by targeting conservation actions to maximise benefits across multiple species (see section 4.3.1). It can encourage a disproportionate amount of conservation effort to be focused on the most endangered species. This singular focus on the emergency end of biodiversity decline may not enable a long-term turnaround in decline or be the most effective way of preventing extinctions.'

We disagree with the premise behind the above paragraph as realistically there is substantial overlap and complementarity between these two approaches. It should not be a case of either/or, and the best outcomes will be achieved when both approaches are applied together. Blending single-species and landscape-scale approaches rather than replacing one with the other should be central to the delivery of the Act, as described on p.7 of the Executive Summary, where the paper states:

- *strategic focus on halting decline before species become endangered; and*
- *preventing extinctions will continue to remain a priority for the government*

Similarly, we also welcome the related statement on p.7:

'The potential improvements would continue to support conservation efforts for the most endangered species. This includes through the preparation of specific action plans to recover those threatened species that require focused attention and improvements to the way habitats critical to the survival of species are protected.'

Furthermore, the following references to single-species approaches provided on p.45 (as seen below) are important to retain.

'While many species can be effectively managed by actions that benefit multiple species, some species may continue to require focused attention. Plans such as action statements that focus on the management of single species or specific threats have an important role in managing these species.'

'Ensure species and threats that are not able to be appropriately addressed through a landscape or area-based approach are managed through the development of plans for single species and threats.'

With this in mind, we suggest the following amendment to Fig. 3 on p.35:

- *retain 'guarantee all species will survive' as an objective;*
- *under Biodiversity Planning we suggest the inclusion of 'Single-species approach where required'.*

Measures to identify and protect critical habitat should be strengthened under the Act. This is the foundation of effective biodiversity conservation and landscape planning, and despite the original intent of the Act, it has been a major shortcoming in its operation to date.

We support the following recommendations on p.43:

- *Publish and periodically update habitat importance maps for rare and threatened species, showing the locations of important habitats for these species*
- *Establish a program to identify and map critical habitat areas across the state on public and private land*



And those in Table 14 on p.57:

- *Provide criteria to define critical habitat (these would be prescribed in Regulations made under the Act). Consider broadening the concept of critical habitat to include areas important for maintaining ecological processes.*
- *Require the Secretary to establish a program to identify and map proposed critical habitat areas across the state on public and private land.*

4. Assessments and listings under the Act

Zoos Victoria support the following recommendations on p. 51;

These aim to achieve the following outcomes:

- *A single, comprehensive list of threatened species and communities in Victoria, which includes nationally threatened species as well as species threatened in Victoria.*
- *A comprehensive list of threatened ecological communities and threatening processes.*
- *Adoption of the IUCN standards for classifying the conservation status of species.*

Under this proposal, the Act's threatened list would include:

- *a list of nationally threatened species based on assessments made according to the Common Assessment Method*
- *a list of Victorian threatened species, which, while not nationally threatened, meet the IUCN criteria when assessed according to their circumstances in Victoria.*

We also support the adoption of the Common Assessment Method and the requirement for DELWP to ensure a comprehensive list is maintained.

Maintaining a Victorian list of threatened species (using the IUCN criteria for listing/Common Assessment Method) will serve several purposes. A State list provides an assessment of population condition within Victoria that is not afforded by the National listing under the EPBC Act. Endangerment is a process, not an event, whereby species undergo declines throughout parts of their range. By maintaining a Victorian list, it provides a local focus to address threats within the Victorian part of a species' range. Whilst greater emphasis may remain on implementing recovery actions for those species that are threatened nationally, a landscape-based approach should take account of those species that are threatened locally. This is of particular importance given the significant functional roles many species play in our environments.

This approach is also consistent with the following statement on p. 19:

'Targeted consultation on the Act and submissions to the draft Biodiversity Plan suggested there is a strong expectation from the Victorian community that threatened species and communities that occur within the state should be provided with specific protection under Victorian legislation, including identification of species threatened at a state level in addition to a national level.'

As recommended, we believe it is important to retain the provision for listing Threatened Communities and Threatening Processes under the Act.



5. Modifications to Action Statements

Modifications to the Action Statement process are warranted given the time required for preparation, review and sign-off, and consequently the large backlog of outstanding Action Statements. However, it is important to retain the potential to create detailed species-specific plans, where required, under the Act. The Consultation Paper includes this provision (p 9).

Streamlining the protracted Actions Statement process is required, and adapting this to the production of Conservation Advices and Priority actions (p. 47) is a reasonable method of achieving this. Will these be statutory documents enforceable under the legislation? This is a key consideration (and an important distinction between National Recovery Plans and Conservation Advice prepared by the Commonwealth Government).

6. Accountability and transparency

We support the measures set out in Table 17 on p. 65. Independent reporting on implementation with structured reviews of progress at designated intervals (e.g. every 5 years) would be a significant improvement. The rationale behind listing decisions made by the Minister should continue to be made publicly available.

7. Further clarification

Further clarification regarding some of the language and its intent found in the Consultation Paper is required.

Statement	Clarification sort
P.35: Figure 3 Accountability and transparency section in the Potential revised Act lists <i>'internal review'</i> .	Should this be 'independent review'?
P. 37 <i>'Halting the overall decline of threatened species and communities and securing the greatest possible number in the wild in the context of climate change.'</i>	'Greatest possible number' is not measurable and unnecessarily reduces the obligation to conserve species.
P. 49 <i>'Enable preparation of management advices for specific species or threats where warranted.'</i>	How binding or enforceable will these be under the legislation?
P. 52: Table 13 <i>'Establish a new requirement for DELWP to ensure the list of threatened species, communities and threatening processes is maintained in a comprehensive state.'</i>	Please describe what 'maintained in a comprehensive state' looks like. How is this to be achieved?
P. 57: Table 14, Point 3. <i>'Modify the regulatory controls for critical habitat to require a permit for activities that may damage the habitat. Investigate replacing Interim Conservation Orders with alternative compliance mechanisms.'</i>	We support the intent of this statement, but note that this prescription is poorly defined and vague.



8. Alignment with global governance approaches

We agree that a statewide strategy for the protection and management of Victoria's biodiversity under the FFG Act with measurable targets is a positive and critical step forward. However, the lack of reference or alignment with global environmental governance structures and Australia's National Biodiversity Strategy that commits to Australia's obligations under the convention for biological diversity and the Aichi targets is a notable gap.

Several of the key issues highlighted by stakeholders in previous reviews of the Act listed in Table 1 on P21 can be addressed by embedding the international multilateral agreements to which Australia is a party. Furthermore, the governance of Victoria's environmental assets are easily framed within the context of global sustainable development goals, which align both social and biological goals including but not limited to climate change, oceans, terrestrial ecosystems, sustainable energy, cities and sustainable consumption and production patterns – all of which are linked to mainstreaming biodiversity and halting loss.

The need to increase our effectiveness in protecting species and environments is reflected in the Consultation Paper. We would like to commend the work DELWP have undertaken in preparing this document for discussion in the Victorian community. It provides a clear and concise summary of the issues and challenges.

With increasing pressures on many species and habitats, strong and effective leadership from the Victorian Government is required to improve outcomes for biodiversity. Greater effort across Government is required to address ongoing habitat loss, degradation and population declines.

The introduction of the Act in 1988 was a progressive and landmark initiative by the Victorian Government. Zoos Victoria strongly supports the Victorian Government's efforts to strengthen both the Act and its commitment to biodiversity conservation amidst increasing challenges facing flora and fauna populations across the State of Victoria.

Yours sincerely,



Chief Executive Officer, Zoos Victoria

