

# Submission on reform of the *Flora and Fauna Guarantee Act 1988*

Friends of Merri Creek Inc.

March 2017

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The Friends of Merri Creek Incorporated is a community group with over 700 members. We have actively worked since 1988 to restore and protect the Merri Creek, its environs and tributaries. We aim to protect and enhance the indigenous flora and fauna communities, ecological flows and the unique biological and geological landscapes, significant Indigenous cultural sites, and historical features of the Merri Creek corridor from Wallan through northern Melbourne, for the enjoyment and benefit of current and future generations. We highly value the indigenous flora and fauna of our catchment, and of Victoria generally, as our natural heritage to be conserved.

To summarise our response to the consultation paper, **the Flora and Fauna Guarantee Act definitely needs to be strengthened and made far more effective in protecting Victoria's native biodiversity.**

In the experience of FoMC, the major expansion of Melbourne's Urban Growth Boundary illustrates the ineffectiveness of the current FFG Act. The assessment and strategic planning for biodiversity conservation in the new growth areas seems to us to be totally focussed on Matters of National Environmental Significance listed under the Commonwealth *Environment Protection and Biodiversity Conservation Act*. It appears that very little regard has been paid to species and communities listed under the FFG Act, although urban development will have major impacts on these. Why, for example, does the FFG Act not protect remnants of the Western (Basalt) Plains Grassland Community and a number of individual fauna and flora species listed as Threatened under the Act that are now within the Urban Growth Boundary? These could have been readily protected *in situ* in conservation reserves.

**We do not accept the mooted abandonment of the guarantee** as suggested in the consultation paper. Extinction is forever, and represents a loss of part of our priceless natural heritage. Victoria is a wealthy state in a wealthy nation; we have the capacity and the moral responsibility to prevent the extinction of native species. We expect vision and leadership from the State Government in this regard. The Act should retain the commitment to ensure that all species of flora and fauna in Victoria survive and retain their potential for evolutionary development in the wild.

The consultation paper suggests that 'protecting, restoring and enhancing biodiversity' could become a new goal in the FFG Act. Many of the FoMC's activities are directed towards restoration of biodiversity along a degraded urban waterway, and we celebrate some success in this regard. We therefore agree that **restoration should be a key objective** in a revised FFG Act. However, we are very well aware that restoration only achieves a partial replacement of complex indigenous ecological communities. Priority should always be given to protecting and conserving the "real thing" over offsetting, or starting from scratch at another site.

We submit that **the provisions of the FFG Act should apply to all entities in Victoria**; there should be no exemptions or special treatment for government departments or public agencies, or particular industries such as forestry. The revised Act should state that public authorities are required to act consistently with its provisions, and any plans and regulations made under it. This includes existing regulatory controls for protected flora, which should be retained. All government decision-making should consider biodiversity values and impacts, early in the process. Specifically, biodiversity needs to be given a higher priority in infrastructure and land use planning and development approvals processes. It is not sufficient to focus on protection of threatened species and communities; most of our indigenous species and communities are in decline and in need of protection and restoration.

We support provisions for **third party standing** for judicial review and the seeking of injunctions, to improve accountability and protection against threatening processes. These third party rights should have costs protection, or the financial risks would likely deter a community organisation or individual from initiating legal action.

We agree that **illegal removal of native vegetation should be prosecuted under the FFG Act** instead of the native vegetation clearing regulations. Improvements in compliance monitoring and enforcement are needed as well, and we support the proposal by Environmental Justice Australia for creation of a **new independent entity to monitor and enforce the FFG Act**, including undertaking prosecutions.

To conclude, Victoria's biodiversity is sadly depleted, but we have the knowledge, wealth and capacity to turn this around if there is political commitment, a sound legal framework and commensurate funding. We look forward to a stronger, more effective legal framework to protect our biodiversity through this reform process.