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Review of the FFG Act
Regulatory Strategy and Design
Department of Environment, Land, Water and Planning
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EAST MELBOURNE VIC 8002

By email: ffg-act.review@delwp.vic.gov.au

RE: Review of the Flora and Fauna Guarantee Act: Consultation Paper

The Department of Environment, Land, Water and Planning (DELWP)'s review of the Flora and Fauna Guarantee (FFG) Act is to be welcomed. Victoria is Australia's most cleared state and the majority of its native plants and animals are at risk of extinction. Implementation of the FFG Act by successive governments over the past 30 years has failed to protect threatened species and habitats. Whilst there are shortcomings in the current FFG Act, a key aspect i.e. the mandatory Action Statements, could have provided far greater protection if the Department had actually drafted Action Statements for all threatened species and then directed sufficient funding to enable protective and restorative actions to be implemented.

I am deeply concerned that a number of the proposed changes detailed in the Consultation Paper will further weaken protection for Victoria's native plants and animals.

I strongly object to the proposal to abandon the guarantee from the Act. To remove the guarantee would suggest that the government's inaction and lack of significant commitment to nature conservation over the past thirty years is to be instituted as accepted practice. The guarantee is a goal that must be retained.

I strongly object to the proposal to drop the requirement for action statements for all threatened species. This binding requirement is fundamental to ensuring that adequate recovery plans for threatened species are developed. Landscape scale conservation, to be effective, must include specific individual threatened species action plans. Action plans should underpin any landscape scale conservation and restoration strategies.

The proposal to develop priority actions for each listed species based on DELWP 's existing databases is seriously inadequate: firstly the existing databases are well out of date and require major biodiversity research and funding to bring up to date; secondly how is it possible to prioritise actions for threatened species if there is no underpinning recovery plan?

I strongly disagree with the proposal to remove the current FFG Act requirement for permits for destruction of protected flora for road and rail construction. The extension of exemptions

to regulatory controls for all road and rail construction will be detrimental to nature conservation in Victoria. Public land managers should be required to abide by all protected flora controls rather than be granted *carte blanche* to destroy them. This proposal is completely retrograde. In fact protected flora controls should be broadened to apply in all cases on public land across the state without exemption and effectively implemented. Anything less simply contributes to the ongoing decline in native vegetation extent in Victoria.

The consultation paper has overlooked a number of changes that are necessary for the reformed Act to be effective. The legislation should include the following:

- an expressed commitment to the precautionary principle. It is a fundamental principle of nature conservation;
- the principle of environmental restoration;
- a more comprehensive enabling framework to establish landscape action plans including clear detailed guidance on what is required in any landscape plan;
- a mandatory requirement for the Minister to declare critical habitat as soon as it is designated as such;
- an amendment to ensure protected flora controls apply on public and private land and apply to industry as well, especially forestry;
- eliminate the division of protected flora and fauna controls between the FFG Act and the Wildlife Act;
- the establishment of a new independent authority to monitor and enforce the Act.

The consultation paper has proposed a number of changes that are heading in the right direction but which require further detail to be provided before they can be fully endorsed. The proposal to include restoration of biodiversity as a key objective is valuable one and if implemented could drive significant improvements in species and their habitat in Victoria but it should not be at the expense of ensuring the conservation of what little remains.

The proposal to clarify and strengthen the existing duty on public authorities to enable a whole-of-government implementation of the Act would be best implemented by amending the current duty ‘to have regard to the objectives of the FFG Act’ to a stronger requirement that public authorities must act consistently with the provisions of the Act, including DELWP. In East Gippsland DELWP continue to undertake planned burns that are too frequent, too hot and too extensive without regard for the long-term biodiversity impacts; the burn planners rely on the out-of-date biodiversity database and rarely undertake on-ground pre-burn surveys. It is imperative for the survival of species and communities that government commits a much larger proportion of fire management funding to biodiversity research and pre and post-burn monitoring. Logging combined with planned burning is eliminating massive areas of habitat. The government must ensure that a reformed FFG Act is implemented across the board to eliminate the incompatibility of native forest logging and broadscale burning with the objectives of nature conservation.

Adoption of a common assessment methodology and a single comprehensive threatened species, communities and threatening processes list would be very advantage but strategic

audits should occur every five years (rather than the proposed ten years) as does the State of environment reporting.

The consultation paper proposes new criteria to broaden the concept of critical habitat in regulations. The existing FFG includes the capacity to protect critical habitat but it has not been implemented. Therefore it is important that an advisory body such as the Scientific Advisory Committee is enabled to undertake the task. Critical habitat should also include habitat potentially needed to ensure survival and recovery of species and communities affected by climate change.

Yours sincerely

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