



March 25, 2017

**Re:** Friends of Eastern Otways, (FOE), Submission to the Review of the *Flora and Fauna Guarantee Act 1988*

The Friends of Eastern Otways welcome the review of the *Flora and Fauna Guarantee Act 1988* (the Act), and the recommendations to make it more effective in protecting Victoria's biodiversity and preventing further species decline and or extinction. As a conservation group working alongside Parks Victoria and the DELWP for over 25 years, we are very much aware of, and concerned about the decline in the incredible biodiversity in the Otways and Victoria over that period of time, and the failure of current legislative frameworks (including the FFG 1988) to halt this decline.

FOE believe that protecting and managing the existing biodiversity across both public and **private land** is the best way to ensure species decline and that extinction is halted (as is recognised within federal legislation). Improving biodiversity on private land will contribute to providing the necessary landscape or area habitat requirements for Victoria's fauna (including threatened species) to survive, and potentially encourage population growth and strengthening of genetic diversity. Improvements to biodiversity on private land will help to reduce habitat degradation and fragmentation and provide necessary corridors for wildlife to move through the landscape, thereby supporting their ongoing survival. The latest State of the Environment Report acknowledges that habitat loss, fragmentation and degradation continue to be key contributors to the decline in Australia's flora and fauna.

FEO **strongly recommend** that any changes to Victoria's threatened species legislation, the Act, must address address the following issues if it is to be successful in halting the decline of Victoria's native flora and fauna.

1. A fair go for threatened species

FOE believes the Act overarching aim should continue to strive to guarantee no species goes extinct as a result of human activities and that native species can flourish in the wild.

FOE is concerned that by seeking to balance social , economic and environmental objectives, the primary purpose of the Act will continue to not be achieved, with economic objectives becoming the primary driver. Failure to recognise and protect the hand that feeds the Victorian community ( i.e. The environment and the ecosystem services it provides; clean air, water, sunshine etc.) will result in even greater species decline and create an even larger extinction debt to future generations. Environmental consideration should always be the primary focus with social and economic considerations secondary. Economic development has been favoured over protecting our environment. Without a healthy environment both economic and social wealth will be degraded.

Changing the framework within the Act to better manage and protect Victoria's biodiversity alone, will result in continued failure if the State Government does not provide the necessary funding and resourcing to ensure the Act's successful implementation. The continued financial shortfall and resource cuts to the environment has been a major contributor to the failure of protecting Victoria's flora and fauna. Significantly greater funding is required for species conservation programs if Victoria wishes to halt the decline in biodiversity and lead in the recovery of threatened species. DEWLP and any supporting agencies **must** be provided with the necessary funding, resources and capability requirements if they are to carry out their role effectively and achieve the goals of the Act.

The Act must not provide or allow exemptions or special treatments for government departments or certain industries. All public authorities and industries **must** be required to comply with the same regulatory frameworks of the Act requiring the protection of Victoria's biodiversity and should not be able to act in a way which threatens biodiversity and/or contributes to species loss/decline. This will ensure the provisions of the Act have greater effect across the various spheres of government decision making. All current exemptions to threatened species protections **must be removed**, ensuring application to all sectors including forestry, and application of The Act must be on private as well as public land.

The State Government must ensure damage to any wildlife habitat is covered by the range of legislation, and that the array of legislation is aligned with regards to biodiversity protection and are not working at cross purposes.

The Act should encompass protection of all habitat types i.e. freshwater, marine, beaches etc. and critical habitats on private lands require government protection. Voluntary agreement is always preferred, however the Government should be able to require compliance requirements by private landholders in specific circumstances against a set of defined criteria in relation to critical habitat if necessary.

#### Case Study 1

*Grevillea infecunda* plants (Federally listed EPBC) were destroyed as a result of DELWP action on Hammonds Rd near Anglesea. Contractors had been hired to carry out roadworks to make sure the road was accessible for community access and also fire protection. We believe the contractor was briefed that machinery was only to be used in the spoon drain but this was not supervised by DELWP and the damage occurred. There seems to be exemptions for government departments – admittedly a rehabilitation plan was developed and the impacted area is being monitored to see how the *Grevillea infecunda* is coming back in the area.

#### Case Study 2

Lack of protection for our Hooded Plovers is of major concern where dog regulations are non-existent on well-known breeding beaches. Preference given to horse riders on beaches where Hooded Plovers breed is one more example of legislation not giving our threatened species 'a fair go.' How can local legislation and State legislation be encouraged to work together?

#### Case Study 3

Exemptions being given to the logging industry by the Federal Government in Leadbeater Possum territory seems unbelievable. How could Victorian legislation more effectively link with the Federal powers?

#### Case Study 4

*The high conservation values contained within the Eumeralla area (Anglesea) of the Great Otway National Park are being completely disrespected putting species at further risk of decline. The use of the area by mountain bike riders who initially made illegal tracks through the vegetation is increasing, with the area being widely promoted and Parks Victoria seeking to have mountain biking formally allowed. The bike riders are now seeking to potentially hold competitive events in this area with a large numbers of riders, further compromising the vegetation such as our Grass trees, Xanthorrhoea australis, terrestrial orchids including rare species such as Thelymitra benthamiana and Caladenia oenochila that grow on the sides of the tracks and destroying native habitat for many of our small mammal species found in the area e.g. Southern Brown Bandicoot (EPBC Listed). Despite the presence of Phytophthora cinnamomi in the area, the high conservation value of the area, and, the known fact that mountain bike riding spreads the disease killing the vegetation, bike riding is being allowed. This is a classic example of our rare and threatened species not being given a 'fair go'.*

#### Case Study 5

*Loss of Velvet Daisy bush (Olearia pannosa ssp. Cardiophylla) (FFG listed) at the Ironbark Basin Car park (at that stage managed by Surf Coast Shire) when the car park was being extended indicates the lack of respect for our threatened species. It is just one more situation that volunteers have faced when carrying out plant surveys in the Anglesea District. Volunteers were able to obtain additional seedlings (grown under cultivation) and replant the area – as far as we know no legal action was taken.*

## 2. Stronger stop and protect powers

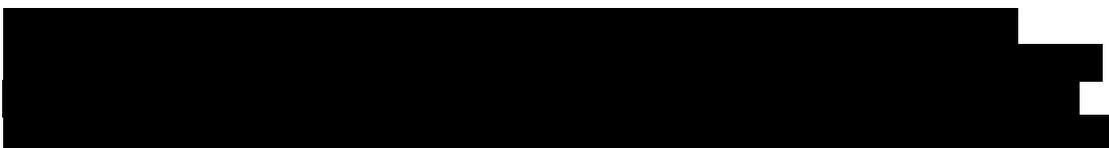
It is essential that the Minister has the necessary powers to to intervene when important species or habitats are under threat (on both public and private land). The Act must provide greater clarity as to when and how the Government is required to act to protect threatened species.

Members of the public and or community groups must be able to contact the Minister with any concerns relating to important species or habitats being threatened, and have the confidence that the Minister has the authority and will intervene accordingly.

## 3. A nature cop on the beat

FOE supports strengthening compliance requirements and penalties for breaches of the Act. Whilst FOE supports the adoption of civil prosecution, the Government should retain the ability to pursue criminal proceedings based on individual scenarios. Furthermore, the Act should contain a range of penalties for non-compliance, potentially civil and criminal that is easily administrable. An independent entity should be established whose purpose is to monitor and enforce the provisions contained within the Act.

#### Case Study





#### 4. Clear targets and timelines

A **stronger** legislative framework is required to support the state biodiversity plan. The framework must include measureable objectives, linked to the overarching goal of the Act and have stated outcomes and timeframes for achievement of actions, with clear accountability. The targets must be specific, courageous, and long term i.e. twenty years. This will ensure appropriate investment and programs are directed for threatened species protection and recovery.

All conservation advice, priority and management actions should be publicly available, appropriately monitored and publicly reported, enabling appropriate transparency and accountability.

##### Case Study

*Caladenia maritima (endemic to Anglesea and listed on FFG) is found in only one site close to the Anglesea township and is therefore in an area subject to fuel reduction burns. Although it is felt that this orchid species would respond well to fire we have twice had to exclude the site from the burn due to the timing that the burn is to take place. An ecological burn for this orchid would be summer or early autumn as the ideal time for this to occur. It is in a small area and we believe that the timeline should be able to be set for this section of the Great Otway National Park to be burnt at this time. Of course, doing the burn in perhaps two stages requires a modification of timelines and increased resource funding.*

#### 5. Giving the community power to act

Successful protection of Victoria's biodiversity requires both government and community support. The Victorian community should be able to take legal action to protect threatened species and or communities. A framework should be created which enables regional communities to develop land-scale restoration action plans, and to take legal action against entities/organisations (both private and public), or individuals, who fail to comply with the legislation. This will increase accountability and contribute towards protecting and conserving Victorias threatened species.

Furthermore given the complex relationship between state legislation which reduces Victoria's biodiversity, FOE strongly urges the State Government to either extend the scope of this review or to commence an immediate review of all regulatory frameworks which affect Victoria's biodiversity, with the express purpose of ensuring **all** regulatory frameworks support the protection of Victoria's biodiversity (marine and freshwater) and work in collaboration with each other, not against each other.

6. Measuring and monitoring biodiversity effectively

It is a truism that to protect Victoria's biodiversity, we need to have some idea about what is out there and where it is, we need to monitor and measure it. We consider that the role of the Victorian Biodiversity Atlas should be strengthened and more money should be allocated to the tool to make it a simple to use and hence more effective instrument for monitoring biodiversity and how it changes. A specific, important improvement would be to put money into a simpler, app-based interface to the VBA so that concerned groups and individuals can upload their observations onto The Atlas in a timely and efficient manner. As users of The Atlas we record our monthly remote camera monitoring results, annual Grey-River koala count, annual Caledonia-Maritima count, and incidental observations on our activities, we have become regular users of The Atlas and would like to ensure it is easier to use so we can maintain more accurate measures of the distribution of our valuable floral and faunal biodiversity.

[REDACTED]