

Review of Flora and Fauna Guarantee Act 1988

Submission to the State Government in response to the Consultation Paper.

The FFG Act needs to be strengthened, not watered down to nice words lacking guarantees of protection or even compliance. For example, while I applaud the concept of “biodiversity enhancement”, the provisions of the Act must strongly support the protection of species, ensure the compliance of government and industry, and allow the public to actively pursue these goals.

Two points:

- **There must continue to be provisions allowing the public to compel the authorities to act to protect a species or community.** At present it is possible for a court action to protect a threatened species when agencies are failing to do so. For example, VicForests was recently compelled to stop clear-felling Leadbeaters’ Possum habitat near the Ada Tree. This capacity must be retained and strengthened.
- **The Act must require and ensure compliance from all branches of government and industry, and across all land tenures, without exemptions.** This will require a properly funded authority, independent of DELWP.

Many (but not all) of the failures of the present Act are failures of governance rather than of the provisions of the Act. For example, the existing provisions for Action Statements and Critical Habitat Determinations are generally ignored by DELWP. There need to be structures and processes to compel agencies such as DELWP and VicForests to comply – firstly to ensure that proper investigations are carried out to identify endangered species and critical habitats before these are damaged by their actions, and secondly to ensure that detrimental actions are not carried out.

In addition, I strongly urge that a draft version of any proposed changes to the Act be released for Public Comment.