

Review of Flora and Fauna Guarantee Act 1988

Submission on behalf of Macedon Ranges Shire Council

Introduction

Thank you for the opportunity to make a submission about the Consultation Paper for the Review of the *Flora and Fauna Guarantee Act 1988*. This submission has not been formally endorsed by Council and, therefore, reflects the views of Council officers only.

Biodiversity in the Shire of Macedon Ranges

The Shire of Macedon Ranges contains various forests and remnant vegetation including the Macedon Ranges and the Cobaws which make a significant contribution to the biodiversity of Central Victoria. These mountain ranges are the headwaters of the Goulburn Broken, Port Phillip and North Central Catchments. The ranges and surrounding areas support nationally and state listed threatened fauna including the Brush-tailed Phascogale (*Phascogale tapoatafa*), Brown Toadlet (*Pseudophryne bibronii*), Powerful Owl (*Ninox strenua*), the Barking Owl (*Ninox connivens*) and the Yarra Pygmy Perch (*Nannoperca obscura*).

Vegetation communities and threatened flora species include EPBC listed Black Gums (*Eucalyptus aggregata*), Basalt Peppercreess (*Lepidium hyssopifolium*), Matted Flax-lily (*Dianella amoena*), Clover Glycine (*Glycine latrobeana*) as well as areas of Plains Grasslands, Plains Grassy Woodland and Scoria Cone Woodland which are all endangered vegetation communities.

Council manages an extensive network of rural roadsides and a number of bushland reserves that support a range of threatened flora and fauna species and vegetation communities, many of which are listed under the *Flora and Fauna Guarantee Act 1988*.

Summary of feedback

Overall the initiatives listed in the Consultation Paper will improve on the existing legislative regime by establishing a more holistic approach to biodiversity planning and regulation. However, the success of the revised framework will largely depend on the resources allocated to its implementation. In the past biodiversity management in Victoria has been severely under-resourced, particularly in the areas of monitoring, data collection and management (e.g. updates to the Victorian Biodiversity Atlas), threatened species listing, compliance and enforcement. This has meant that current knowledge about the impacts of climate change and the distribution of many threatened species and communities is incomplete, that decision makers rely on inaccurate information and that non-compliance often goes un-monitored and un-prosecuted. A significant increase in resource allocation at the State and regional level is required in order to address these deficiencies. This could take the form of regional State Government compliance officers, additional funding for comprehensive monitoring programs on public and private land and additional funding of the scientific and natural resource management community for research, threatened species assessments / listing processes and data uploads.

Once changes are made to the Act, it is recommended that a comprehensive program of local government and broader community education occurs to raise awareness about the new regulatory regime. Simple, plain English fact sheets should be produced that clearly articulate roles, responsibilities and permit requirements for relevant land managers, including public land managers such as councils and Crown Land Committees of Management.

Feedback on Consultation Paper

- **Objectives** – Council supports the revised objectives listed on page 37, including the reference to protecting species in the wild, managing threats to climate change, promoting a landscape scale approach, facilitating involvement of Traditional Owners and facilitating knowledge sharing and monitoring.
- **Principles** – Council supports the use of principles to guide decision making generally based on the matters listed on page 38. While the principles should provide guidance about how environment, social and economic objectives should be considered, “balancing” these objectives is not always possible or desirable. Seeking “balance” can under-value environmental protection which is difficult to quantify compared to economic benefits. Alternative language should be considered that clearly gives priority to the “primacy of prevention” principle when considering environmental protection against economic development outcomes / benefits.
- **Duty on public authorities** – Clarifying and strengthening the duties of state government departments and agencies is supported, including the use of ministerial guidelines to facilitate compliance. This would help ensure biodiversity impacts are appropriately considered as a part of infrastructure works conducted by agencies such as VicRoads and VicTrack, as well as during the planning for prescribed burns and other activities that may impact state significant flora and fauna. Clarifying state government department and agency duties will also ensure sufficient resources are allocated to pro-actively protecting and enhancing the biodiversity values on land such as road reserves, rail reserves and other unprotected Crown land.
- **Biodiversity standards** – Development of biodiversity standards is supported. The status of these standards and their applicability to local government requires clarification. These standards should be developed through a consultative process with relevant experts and stakeholders. They should also be adaptable or subject to regular review to ensure they continue to address contemporary threats and facilitate best practice management approaches.
- **Biodiversity planning** – Establishing a structured approach to biodiversity planning, including establishment of state targets and landscape scale responses is supported. This approach should help ensure areas that support threatened species are suitably protected, even if the vegetation community itself is not listed as threatened. This should also enable the impact of small incremental losses of vegetation to be assessed and any associated threats to listed species to be suitably mitigated. As an example, the Brush-tailed Phascogale is listed under the FFG Act, however the vegetation communities it relies on in the Macedon Ranges are often not listed as threatened. As a result, incremental loss of habitat through Central Victoria

associated with development and / or inappropriate management of state forests may be exacerbating the decline of the species.

- **Private land conservation** – Council supports the suggestion to provide the ability for illegal clearance of native vegetation on private land to be enforced under the FFG Act. This would strengthen existing compliance arrangements under the *Planning and Environment Act 1987*, enabling higher penalties to be applied if appropriate.
- **Listing processes** – Council supports the introduction of a common assessment method to list threatened species, communities and processes. Appropriate resources should be allocated to pro-active assessments of potentially threatened species and communities to ensure the State’s threatened species lists are comprehensive and respond to changing conditions and circumstances.
- **Habitat protection** – The expansion of the concept of “critical habitat” to include habitat corridors and climate refuges is supported. The identification and mapping of critical habitat will require significant resources as well as clear criteria to ensure this provision is targeted appropriately. The recommendation to investigate establishing an offence to damage habitat of threatened species or communities without a permit is supported in principle. However, this provision will need to be carefully designed to clearly identify when the provision applies. Given the broad habitat areas utilised by some threatened species, such as birds, ensuring this provision is suitably targeted will be important in order to prevent unnecessary regulation and administration.
- **Compliance and enforcement** – Council supports the proposal to establish a strong compliance regime, including increased penalties for breaches of the Act. Successful implementation of the Act and its regulations will rely on appropriate resourcing for compliance and enforcement activities.