

**Submission to 'Review of the Flora & Fauna Guarantee Act 1988'.**

Wombat Forestcare welcomes the opportunity to make a submission to the consultation paper for the 'Review of the Flora & Fauna Guarantee Act 1988'.

We note the intention to revise the objectives of the Act, from 'guarantee all species survive' to 'protect, restore and enhance biodiversity'. Although conservation measures for the protection of habitat are critically important, it is also critically important that the Act guarantees the survival of species. The Act would be much diluted by the removal of this important objective.

**Action Statements**

As these are not legally binding documents, they serve little purpose other than to provide some guidance and fail to protect 'threatened' species. We submit that the Action Statements need to be legally enforceable documents and that all public authorities must comply with the relevant sections of the statement.

It would seem that the consultation paper is recommending a move away from Action Statements due to the resources needed to produce them, however, we do not think that there would then be adequate focus on protection for threatened species if this were the case. Action statements should remain mandatory for every listed species and their contents legally enforceable.

We would like to include an example of the failure of the FFG Act and the Action Statement to protect a 'threatened' species. In 2015, shooting disrupted a Powerful Owl (*Ninox strenua*) breeding site in the Wombat State Forest and the owls either abandoned the nest site (at a time there were probably chicks in the nest hollow) or may have been shot. Many people camp in this area and this was brought to the attention of DELWP management, with a request to close the area. Although we understood that this would occur, a small amount of work was done, and the site has not been closed.

Should Powerful Owls attempt to breed here again, there is nothing in place to protect them and the camping area is now substantially larger. Shooting should not have been allowed to occur near a Powerful Owl breeding site in the first place and the FFG Act should have been able to prevent this activity from occurring.

**Listing of Species**

There are a number of species that are probably 'threatened', however, due to a lack of adequate data, fail to be listed by the Scientific Advisory Committee.

An example of this is the Eastern Pygmy Possum (*Cercartetus nanus*), where the Scientific Advisory Committee noted that 'insufficient appropriately targeted

survey efforts have been completed to demonstrate that these declines are of a magnitude that is likely to result in the extinction of the species.’

The FFG Act should include the precautionary principle with respect to listing species and the lack of adequate data should not be a reason for not listing a species, if there is a high likelihood that the species is ‘threatened’.

We consider that the government should be more pro-active and not leave it to community members and groups to provide information.

### **Native Vegetation Clearing**

We note that the discussion paper states, “The regulations play an important role in protecting habitat for many species.”

An example of where this is clearly not the case is the exemption for the removal of native vegetation on a fence line. A large number of 80 – 100 year old eucalypts and blackwoods were removed along a fence line within 800m of a Powerful Owl nest site. This would have been part of the Powerful Owls’ hunting area. The removal occurred after a permission to subdivide was granted by the Hepburn Shire.

The extent of the clearing was substantial. Timber was removed on at least two log trucks and the roots and large blackwoods formed a pile the size of a small cottage.

Another property, within 500m of the Powerful Owl nest site is applying for permission to subdivide and if they choose to can legally remove similar established trees on their fence line.

We consider that these and similar exemptions should be removed from the native vegetation clearing regulations or the FFG Act should override these exemptions in the case of native vegetation that is important for the survival of ‘threatened’ species.

### **Planned Burns**

This is an area where DELWP staff gives little or no consideration to Action Plans or the protection of ‘threatened’ species.

There is an Action Plan for the ‘loss of hollow bearing trees’, and ‘inappropriate fire regimes’ is listed as a ‘potentially threatening process’ for many ‘threatened’ species.

The northern section of the Wombat State Forest and the Hepburn Regional Park has been and continues to be repeatedly subjected to planned burns. This area is critical habitat for the Brush-tailed Phascogale (*Phascogale tapoatafa*) and it has not been established whether the fire regime has negatively affected their population.

The FFG Act should have an impact on how fuel reduction burns are carried out.

### **Regionally 'threatened' or significant species**

No mention has been made of how to deal with regionally 'threatened' or significant species. Many species that are common in areas such as Gippsland and the Otways often have low populations in the Wombat State Forest. For example, Dusky Antechinus (*Antechinus swainsonii*), a common species statewide, has only a few known locations in the Wombat State Forest and one of these locations will be subjected to a planned burn.

### **Advisory lists**

Advisory lists are not made under the FFG Act and need to be given some legal standing as do species listed as 'rare' or 'near threatened.'

### **Flora & Fauna Guarantee Strategy**

As the Biodiversity Plan is to become the FFGA Strategy it is important that it includes biodiversity targets and that it is reviewed every five years

There needs to be a strategic audit to identify gaps in knowledge regarding species and habitat.

We have raised issues that have caused our group concern, but would also like to state that Wombat Forestcare fully supports the issues raised in the Environmental Justice Australia briefing paper, including the proposal for an independent authority to monitor and enforce the FFG Act.

When the Flora & Fauna Guarantee Act was written in 1988, it was a world-leading piece of legislation. It is important that the reviewed FFG Act should set a similarly high standard and not be overridden by other Acts, such as the Forests Act, or watered down for social or economic reasons.



Wombat Forestcare Inc

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