



## **The Goulburn Valley Environment Group Inc.**

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### **Goulburn Valley Environment Group (GVEG) submission**

To whom it concerns,

#### **Re: Review of the *Flora and Fauna Guarantee Act 1988 Consultation Paper***

Thank you for the opportunity to provide comment on this review and proposed improvements to the *Flora and Fauna Guarantee Act*.

The Goulburn Valley Environment Group (GVEG) is one of the peak environmental organisations in northern Victoria and has been actively involved in nature conservation issues over the past 25 years in what is one of the most highly cleared regions of the State. It is from this context and our close engagement with local shires, DELWP, GBCMA and other local authorities and organisations on biodiversity matters that we provide comment on the consultation paper and proposed improvements to *Flora and Fauna Guarantee Act 1988*.

#### **General comments**

GVEG welcomes this review and the opportunity to reset the States commitment to Victoria's biodiversity protection. We do not believe the existing Act, introduced in 1988, has achieved the desired biodiversity outcomes or lived up to expectations of the community, especially regarding protection of biodiversity on private land

In part, this failing has been a result of the many layers of administrative approval needed to protect a critical site, but it is also a lack of sufficient resources being provided for training, enforcement and monitoring over the lifetime of this legislation. We therefore welcome the Victorian Government's commitment to modernising the legislation and making it more effective to achieve positive biodiversity results on the ground. In a region like the Goulburn Valley, where most native vegetation has been removed and most biodiversity has declined, it is critical that we improve the chances of survival for our remaining populations of native plants and animals..

The GVEG has structured our response to clearly identify proposed amendments that we support, those recommendations we cannot support and opportunities to further strengthen the proposed Act.

**GVEG supports the following amendments proposed in the discussion paper.**

#### Section 4.1

GVEG supports the intention of introducing a new goal, “protecting, restoring and enhancing biodiversity” in the FFG Act. Given our experience in the Goulburn Valley it is important that restoration, wherever possible, is accepted.

#### Section 4.2

GVEG supports the clarification and strengthening of the existing duties of public authorities with regard to biodiversity conservation. We suggest that, in line with the recommendations of the draft Biodiversity Plan, those authorities are clearly required to act consistently with the provisions of the FFG Act and be compelled to do so where it is evident that they are not managing their land for agreed biodiversity outcomes.

As part of the revised legislation, we also seek confirmation that these proposed improvements to the Act will apply to public authorities carrying out actions impacting on listed species or communities. In our region, for example, we are aware of logging activities by VicForests which are impacting on habitat of the FFG listed Powerful Owl and EPBC listed Greater Glider but their actions are exempt under the current native Vegetation Clearing Regulations. If the FFG Act is to become a more effective instrument, it must have the powers to stop this type of destructive activity where there is solid evidence that the activity is having a significant, negative impact on the survival of a species, population or community.

#### Section 4.3

The incorporation and mandating of targets into the Act in regard to the biodiversity plan is supported and we suggest could be improved by considering adoption of regional targets as part of this approach.

GVEG supports the adoption of common assessment methodology –based on IUCN criteria – for listing and obligation to maintain a single comprehensive list of threatened, species, communities and threatening processes and believes strategic audits should take place every 5 years.

#### Section 4.4

GVEG believes the identification of critical habitat for threatened species is Critical habitat should also include habitat currently needed to ensure the survival and conservation taking into account future development pressures and climate change.

We support the Secretary being required to establish a program to identify and map proposed critical habitat on both public and private land and the inclusion of a permitting regime for activities that may damage critical habitat. We expect this to be based on a ‘maintain or improve test’ which must prevail over other schemes and Acts, including the Native Vegetation Clearing Regulations.

We support the establishment of a new offence to damage habitat of threatened species or communities without a permit but believe exemptions should be minimal and enforcement resources available.

We also support the illegal removal of native vegetation to be prosecuted under the FFG Act and the proposed improvements to compliance and enforcement of the FFG Act habitat controls, including increased penalties, a tiered suite of enforcement tools. We question who monitors and enforces these changes.

#### Section 4.5

Transparency is critical to groups such as GVEG and we welcome proposals to improve accountability and transparency under the FFG Act

**GVEG believes the Act should be strengthened or clarified in the following areas.**

#### Section 4.1

The precautionary principle is a fundamental pillar of modern environmental law and as such should be included in the FFG Act.

#### Section 4.3

A more comprehensive enabling framework to establish landscape action plans

GVEG recognises the need to have efficiencies in conservation planning but is concerned that this approach may sometimes dilute the effectiveness of targeted conservation actions developed for individual species. As an illustration, in our region two FFG-listed woodland birds – Grey-crowned Babbler and Bush Stone-curlew – are often lumped together in terms of their conservation needs as both are ground-dwelling, insectivorous box woodland species. For babbler, a positive conservation action is to fence off remnant mature trees and encourage regeneration as this provides additional nesting habitat. For stone-curlews, however, fenced remnants no longer provide suitable habitat as the grass cover becomes too dense and too tall. Aggregated actions therefore pose a risk to both species, unless well targeted and supported by expert extension advice.

#### Section 4.4

GVEG strongly supports the proposal to broaden the scope of ‘critical habitat’ and believes that this could help address some of the regulatory gaps which currently exist under the provisions of the Native Vegetation Clearing Regulations (NVCR). We note that in our region, some key habitats which might benefit from this proposed improvement to the act would be:

- Shallows wetland systems (e.g. gilgai wetlands, plains grassy wetlands)
- Scattered mature paddock trees
- Remnant habitats falling within current exemptions of the NVCR but which provide critical habitat for populations of some species

However, we note that it is unclear from the consultation paper whether or not there will be regulatory controls able to be applied to mapped critical habitat on private land. We recommend that it is essential that the scope of the Act and its enforcement powers be expanded to private land, as this has been one of the weaknesses of the Act in its current form.

Section 4.5

The creation of a new independent entity to monitor and enforce the FFG Act, including undertaking prosecutions under the FFG Act.

**GVEG does not support the following recommendations.**

GVEG is not in support of loss of the guarantee (Sect. 4.1). We believe this to be a downgrading of the government's commitment to nature conservation in Victoria and impacts on the image and effectiveness of the Act.

We are also not in favour of the removal of the requirement for action statements (Sect. 4.3) for all listed threatened species. Effectively these "recovery plans" for threatened species are currently the only binding action that the government must take to protect listed threatened species.

GVEG has limited confidence in existing DELWP databases (Sect. 4.3) to produce priority actions. In our experience this data is outdated and in relation to mapping, flawed.

We do not favour the removal of current requirement for permits (Sect. 4.4) for destruction of protected flora in many cases where currently required. We have many examples of public land managers undertaking works that have unnecessarily impacted on protected species. Why wouldn't these public authorities, managing public land not be expected to maintain equivalent, if not higher, standard than private citizens.

Our group has welcomed the opportunity to comment on this critical legislation that underpins so much of the State's efforts to preserve and enhance our natural environment. We are available to further discuss our groups views outlined in the above submission.

Yours sincerely,



  
President, GVEG

***Protecting the environment for generations to come***