



Merri Creek, Merriang, MCMC

Independent Review of the
Wildlife Act 1975.
Submission - Friends of Merri
Creek.

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OFFICIAL



Introduction

The Friends of Merri Creek Incorporated (FoMC) is a community group, with over 300 members. We have actively worked since establishment in 1988 to restore and protect the Merri Creek, its environs and tributaries.

Indigenous flora and fauna communities, unique biological and geological landscapes, significant Indigenous cultural sites, and historical features span the length of the Merri Creek corridor - from rural Wallan, through the industrial and urban zones of northern Melbourne before joining the Yarra River at Abbotsford.

The core purpose of the Friends varied activities is to support and enhance the biodiversity of the parks, bushland and wildlife corridors along the Merri Creek. We host a calendar of community activities:

- Planting, weeding and other ecological restoration
- Monthly water quality monitoring at a series of sites.
- Bird surveys at 10 sites, held quarterly
- Monthly litter clean-ups
- Public walks, talks and tours

The Friends play an advocacy and support role for the fauna and flora of the Merri catchment by:

- Advocating for parkland creation, wetland restoration, water quality improvement and protection of sites, species and communities of conservation significance in the Merri catchment
- Campaigning against threats to the Merri corridor, including a freeway, a major power transmission line, and toxic waste stockpiles
- Engaging in strategic planning and development approvals processes to protect the Merri corridor and significant sites
- Providing six representatives, and currently three office-bearers, to Merri Creek Management Committee.

When the *Wildlife act* was first framed, general understandings of wildlife were much narrower than ours of today. Species do not exist in isolation from each other and their surroundings. The slender reference to habitat protection in the current legislation is wholly inadequate as a protective measure for wildlife and fails to take into account the complexities of a biodiverse ecosystem.

Most native species in Victoria are in decline. The state government strategy for conserving threatened species noted that “there are more than 5,000 plants and 1,200 vertebrate animals native to Victoria. Over a third of these species are of conservation concern (classified as rare, threatened or near-threatened) and that there is a continued decline in the quality and extent of habitat of native species.”¹

The 2017 VEAC report *Statewide Assessment of Public Land* found that native vegetation is a key indicator for the overall state of terrestrial biodiversity.²

The *Act* should be strengthened, but also gain force by harmonising with existing protective legislation for biodiversity and species protection. As the focus of other legislation is the protection of listed endangered and vulnerable populations of flora and fauna – the *Wildlife act* should then aim to deliver greater protections to all wildlife.

The wildlife of Merri Creek

The Merri Creek and parklands, especially in the southern sections, give people a valued opportunity to engage with wildlife along with the other elements of a biodiverse ecosystem. Many of these species are not protected by the *Wildlife act* – excluded by their category and by the inadequate habitat protections included in the current legislation.

The wildlife of the Merri catchment includes aquatic and terrestrial species – occurring in different segments along the length of the creek. The journey through agricultural land, new housing development and related infrastructure, industrial precincts and urban settings presents a range of challenges for wildlife and biodiversity which sustains it.

Current protections for Merri wildlife species come under the *Flora and Fauna Guarantee Act* and the *Environment Protection and Biodiversity Conservation Act* (flowing on from the Melbourne Strategic Assessment (MSA) process.

For the *Act* to benefit wildlife in the Merri Creek catchment it must deliver strengthened habitat protections and address the gap between listed and unlisted wildlife species.

¹ [Victoria's Framework for Conserving Threatened Species. Flora and Fauna Guarantee Act 1988](#). Viewed 28/6/2021.

² [Statewide Assessment of Public Land Final Report](#), Victorian Environmental Assessment Council, May 2017. p.20. Viewed 28/6/2021.

Fragile ecosystems in urban and peri urban settings require an approach that extends beyond the current limitations of the *Act* to vertebrates and species listed under other protective frameworks. We would encourage the reformed act to take a wider view - and as stated for the *Flora and fauna guarantee act* – look to protect all native species.³ As our natural world is increasingly impacted by human presence and climate change – greater protections are needed to support more robust and adaptive populations.

Planning legislation and regulatory frameworks have significantly affected biodiversity for the Merri catchment. The MSA for the northern growth corridor allowed the destruction of the threatened habitats of the Natural Temperate Grasslands and Grassy Eucalypt Woodlands. Undertakings to offset this under the *EPBC Act* have failed as the promised Western Grassland Reserve and Grassy Eucalypt Woodlands Reserve are still to be realised.⁴

Many of the faunal species, by their nature, cannot be trapped or relocated and so are effectively sacrificed. A strengthened act should be able to deliver protection to such communities.

³ [Victoria's Framework for Conserving Threatened Species. Flora and Fauna Guarantee Act 1988](#). Viewed 28/6/2021.

⁴ [Protecting critically endangered grasslands](#). Victorian Auditor General's Office. 2020. p. 8 Viewed 28/6/2021.

Recommendations

We endorse a legislative framework that explicitly recognises the essential tasks of habitat protection and restoration to support native wildlife populations and their ecosystems.

Reforming the Wildlife act to protect native species and their habitats will bring it into step with the aspirations of other environmental legislation and policy – *Flora and Fauna Guarantee Act, Environmental Protection and Biodiversity Conservation Act, Environment Protection Act*, and the state governments policy *Biodiversity 2037*.

Introduced species of wildlife - currently covered under the *Act* - such as feral deer and horses, which cause great harm to habitats should not be included in the act as their preservation is in conflict with the stated purpose - the protection and conservation of wildlife. Recreational hunting and shooting provisions should be governed by other processes.

We endorse the introduction of a “**general duty of care**”. As with the revised *Environment Protection act*, this raises the bar from avoidance of harm to a more active protection. In the event that harm is done – the perpetrator should be made responsible to repair or recompense to address the infringement.

We support the introduction of **effective penalties**, that recognise the costs of habitat destruction. Although it is an offence under the *Wildlife regulations* (Reg. 42) to disturb, damage or destroy wildlife habitat, the maximum penalty is only 50 penalty units (\$8,261). This significantly diminishes the seriousness of this offence. It could be seen to be an absorbable cost – rather than a genuine deterrent, thus offering no protection.

An **independent regulator** could be responsible for the development and co-ordination of a strong evidence base for population assessments and monitoring, complementing the activities already undertaken in support of existing legislation.

Appendix 1

Wildlife of Merri Creek⁵

Fish and aquatic mammals

Short finned eel, Common and broad finned Galaxia, River blackfish, Flat headed gudgeon, Tupong, Australian smelt have been recorded as present in various sections of the creek in 2002. Introduced species such as carp and mosquito fish impact native populations.

Platypus appear no longer to be resident in Merri Creek and reported sightings in the lower Merri were attributed to Platypus visiting from the Yarra River to forage for food. ⁶

Amphibians

Frog species include the Southern Brown and Whistling Tree Frogs, Common Froglet, Victorian Smooth Froglet, Pobblebonk Frog, Spotted Marsh Frog and the Growling Grass Frog, protected under the *EPBC Act* ⁷. The Common Long-necked Tortoise has also been recorded.

Reptiles

Legless lizard, tiger snake, brown snake,

Terrestrial species

Bats, Swamp wallaby, Eastern grey kangaroo, Rakali (native water rat).

Birds

A diverse list of [140 species](#) have been recorded along the creek since 2008 – from the Flame Robin to the Collared Sparrow Hawk.

⁵ For further detail see:

[Merri Creek and Environs Strategy Chapter 3.3 - Aquatic Flora, Fauna and Wetlands](#)
[Merri Creek Fauna](#)

[Wildlife and habitat guide for Merriang landholders](#)

⁶ [Merri Creek and Environs Strategy Chapter 3.3 - Aquatic Flora, Fauna and Wetlands](#)

⁷ [Growling Grass Frog Masterplan for Melbourne's Growth Corridors](#). Melbourne Strategic Assessment. 2017. Viewed 28/6/2021.