



28 March 2017

Manager FFG Act Review
Department of Environment, Land, Water and Planning
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To the Manager FFG Act Review

Review of the Flora and Fauna Guarantee Act 1988 Consultation Paper

Hobsons Bay City Council welcomes the opportunity to contribute to the review of the *Flora and Fauna Guarantee Act 1988* (FFG Act). An updated FFG Act provides the potential to align with best practice international standards, whilst improving the accountability and overall protection for biodiversity.

Council has recently developed its first community vision, Hobsons Bay 2030, where one of six key priority areas is the proactive enrichment, expansion and conservation of the natural and urban environment. This includes advice from our community that the diversity of our flora and fauna and the integration of green initiatives such as urban access corridors that connect the natural, residential and industrial areas should be enhanced.

Hobsons Bay has also developed a draft Biodiversity Strategy 2017-22. As a coastal municipality we are managing significant marine, wetlands and coastal parks that provide habitat to an impressive range of flora and fauna, including many rare and threatened species. The Strategy establishes priorities for managing this diverse array of ecosystems.

Please see attached our submission for the review of the FFG Act. We look forward to the outcomes and welcome any additional opportunities for feedback. Should you wish to discuss the submission further please contact Jo Noesgaard, Manager Strategy and Advocacy on 9932 1000 or email jnoesgaard@hobsonsbay.vic.gov.au.

Yours sincerely

Chris Eddy
Chief Executive Officer



Hobsons Bay City Council Submission to the *Flora and Fauna Guarantee Act 1988* consultation paper

Summary

There is support for a new and improved FFG Act that:

- aligns with best practice international standards
- provides a modern, streamlined, regulatory process that improves biodiversity outcomes
- provides a strong deterrent to illegal behaviour
- supports leadership and ensures good performance by land managers
- recognises and manages the impacts of climate change on Victoria's biodiversity

Discussion

The natural environment is highly valued by the Hobsons Bay community. Valuing and protecting our unique biodiversity for current and future generations is the most significant message that came out of the community consultation for Council's draft Biodiversity Strategy. Given the high value placed on biodiversity by the Hobsons Bay community, it is pleasing to see the FFG Act consultation paper recognises the importance of social, economic and environmental values provided by Victoria's biodiversity.

Integration of biodiversity legislation

While there are significant improvements being suggested as part of the consultation paper, it is noted that the FFG Act is just one of a suite of legislation that protects biodiversity. Further work is required to strengthen the alignment and integration of this suite of legislation.

The suite of legislation includes the *Wildlife Act 1975*, the *National Parks Act 1975*, the *Victorian Conservation Trusts Act 1972*, the *Catchment and Land Protection Act 1994*, the *Planning and Environment Act 1987* and the *Native Vegetation Clearing Regulations* (under review). Emphasis on the integration and alignment between this suite of legislation in the area of enforcement is required to enable the protection of native vegetation and biodiversity values. It is recommended that this work be undertaken in the next few years in addition to the proposed changes to the FFG Act.

There is a need for stronger alignment between the approval and enforcement processes between the *FFG Act* and the *Planning and Environment Act*. As a minimum, this needs to be addressed as part of a review into the suite of biodiversity



legislation. Importantly, a review and realignment of legislation should not devolve responsibility from the State to Local Government.

Listing of species and habitat

There is support for aligning processes for listing species with federal and international standards. Resources will be needed to ensure the status of species are reviewed and updated accordingly.

Due to limitations in the current modelling, it is important to develop a mechanism that is capable of identifying and then nominating a site for critical habitat. This aligns with proposed changes to the *Native Vegetation Clearing Regulations*. Local governments will require resources to map sites prior to nomination.

Clarification of duties

There is support for the clarification of duties under the FFG Act. Duties should be consistent for all land managers regardless of whether they are under a committee of management or not. Resources should be provided for managers of state owned land to ensure that the duties can be adequately met.

Duties should expressly include a duty to private land holders to take steps to prevent the loss of vegetation. It should consider the consequences of both action and inaction. It is suggested that private land holders be required to take reasonable action to protect and preserve native vegetation on their properties.

Compliance and enforcement

There is support for strengthened compliance and enforcement under the FFG Act. Enforcement capabilities of the FFG Act should provide a strong deterrent to illegal behaviour. Currently this is lacking, as the cost of illegal clearing of vegetation is more affordable than obtaining (purchasing) offsets in some cases. To provide a deterrent, the cost of illegally clearing vegetation should be comparable at a minimum to the cost of providing an offset plus a penalty amount.

Primary responsibility for investigating and enforcing breaches of the FFG Act should remain with Department Environment Land Water and Planning (DELWP). Appropriate resources should be provided by DELWP, so that the Act can be adequately enforced in practice.

Local governments are more likely to become aware of breaches of the FFG Act and as a consequence often play an unofficial role in notifying DELWP of any infringements that require investigation. While responsibility to investigate and enforce the FFG Act should lie primarily with DELWP, there is benefit in enabling local governments to issue PINs to offenders as this would add to the tools available to manage any illegal behaviour.



This will assist in speeding up the enforcement process. The option of enabling local government to choose whether or not a suitably qualified officer becomes a registered officer with the power to issue pins under the Act should be considered. This would be particularly useful when Council managed land is cleared without Council knowledge or approval.

Managing offsets in perpetuity

Further consideration needs to be given to the management of offsets following completion of the 10 year funding period. This should include:

- how the quality of offsets will be monitored to ensure vegetation and ecosystems remain in good condition
- how the management of offsets will be resourced post the 10 year funded period
- responsibility for resourcing the management of these offsets in perpetuity (this should not fall to local governments)
- projected climate change impacts and the likely changes in vegetation and ecosystems
- an appropriate mechanism to account for these changes

Action statements

To be effective, action statements should be monitored, evaluated and reported on. Action statements should be enforceable and have legislative weight for consideration in decision making. While it is beneficial for action statements to consider single species they should primarily focus on the health of the ecosystem as a whole. Strong ecosystem health has the greatest benefits for the greatest number of species.

Municipal Association of Victoria submission

There is support for the statements and recommendations identified in the Municipal Association of Victoria submission on the consultation paper.