Flora and Fauna Guarantee Amendment Act 2019 - modernising Victoria's key biodiversity legislation

What will the changes bring for practitioners?

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WSP Australia Pty Limited & ECAV
Overview

• Consultants and related practitioners typically undertake (or review) ecological impact assessments, threatened species surveys and undertaken ecological restoration/management.

• How will the amendments affect ecological and environment consultants and practitioners?

• This talk summaries the current FFG Act in comparison to the proposed changes of the new FFG Act.
## Quick and dirty summary

<table>
<thead>
<tr>
<th>Items typically considered</th>
<th>FFG Act 1988 vs 2019</th>
</tr>
</thead>
<tbody>
<tr>
<td>Threatened species</td>
<td>Key changes to listings</td>
</tr>
<tr>
<td>Threatened communities</td>
<td>No changes to listings</td>
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<tr>
<td>Threatening processes</td>
<td>No changes to listings</td>
</tr>
<tr>
<td>Protected flora</td>
<td>Key changes</td>
</tr>
<tr>
<td>Public authority</td>
<td>Key changes</td>
</tr>
<tr>
<td>Permits</td>
<td>Some changes</td>
</tr>
<tr>
<td>Significant impact test</td>
<td>Not in both Acts</td>
</tr>
<tr>
<td>Critical habitat</td>
<td>Key changes</td>
</tr>
<tr>
<td>Public vs private land tenure</td>
<td>Minor changes</td>
</tr>
<tr>
<td>Translocation</td>
<td>Not in both Acts</td>
</tr>
</tbody>
</table>
Threatened species

• Currently one category of ‘threatened’ – will change to eight categories in line with IUCN

• Possible that more species are added to threatened list or status changed, therefore more/different list of threatened species to consider with impact, development and management plans

• Possible to have listings to occur much quicker (eg. bulk processing)
Threatened communities

- No change to threatened community listings
- However, change in definition of Critical Habitat may mean more areas of habitat critical to the survival of threatened species or communities are determined.
Protected flora

• New “restricted use” category, which will apply to flora that are not listed as threatened, but may be at risk if commercial or personal use is not sustainably managed.

• Current list of protected flora will be reviewed to reduce overlap with native vegetation clearing controls.

• Potentially less permit requirements for common, non-threatened Protected Flora for development applications?
Protected flora explainer – *green eggs and ham style*

- Flora taxa outside the range of the community
- Flora not protected taxa or part of listed community
- FFG-listed communities
- Advisory-listed flora species
- FFG-listed flora species
- Protected flora
- All other native flora

**Example – Kangaroo Grass**

Kangaroo Grass is protected when part of a listed community (e.g., grassland and grassy woodland community) but not when not occurring in the community.
Public authority

• New Act will require proper consideration of:
  • Biodiversity Strategy
  • Action statements
  • Critical habitat
  • Management plans

• And:
  • Long and short-term impacts
  • Direct and indirect impacts
  • Cumulative impacts
  • etc
**Public vs private**

*Is a permit required or does the FFG apply to the different tenure?*

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<tr>
<th>Items</th>
<th>Private</th>
<th>Public</th>
</tr>
</thead>
<tbody>
<tr>
<td>Threatened flora and fauna species</td>
<td>✗ *</td>
<td>✓</td>
</tr>
<tr>
<td>Aquatic taxa</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>Threatened communities</td>
<td>✗ *</td>
<td>✓</td>
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<td>✗</td>
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<td>Critical habitat</td>
<td>✓</td>
<td>✓</td>
</tr>
</tbody>
</table>

* Does not apply to species or communities determined as critical habitat

˄ Legally taken from private land for non-commercial purposes, other than critical habitat

**Minor changes from old to new FFG Act**
Public vs private

Many road and rail projects may be affected by new FFG Act
Permits

• New exemption from the need for a permit to take protected flora for public authorities acting in accordance with a public authority management agreement (PAMA) under the Act.

• maintains the Act’s exemption for taking protected flora from private land, for non-commercial purposes

• Clarification that private land excludes land owned by or vested in a public authority
Significant impact test

• FFG Act 1988
  • No ‘threshold’ to determine if an impact on listed species or community is significant (unlike EPBC Act), except:
    • Only applies to granting a permit to a landholder or water manager under an interim conservation order

• FFG Act 2019
  • No threshold of impact to determine if an impact is significant or if a permit is required.
  • Effectively, any level of impact will be prohibited without authorization under the FFG Act.
Translocation

• Endorsed but not in FFG Act 1988 or 2019 amendment

• Procedures Statement for the Translocation of Threatened Native Flora in Victoria (unsure if active policy)

• Procedure Statement for the Translocation of Threatened Native Vertebrate Fauna in Victoria (active policy)
Thanks!!

TAYLOR SWIFT PARROT