

## LEGISLATIVE COUNCIL

## FLORA AND FAUNA GUARANTEE AMENDMENT BILL 2019

(Amendments to be proposed in Committee by Dr RATNAM)

1. Clause 6, page 12, line 2, omit "**proper consideration of objectives**" and insert "**effect to objectives and principles**".
2. Clause 6, page 12, lines 7 and 8, omit "proper consideration to the objectives" and insert "effect to the objectives and principles".
3. Clause 6, page 12, line 14, omit "proper consideration" and insert "effect".
4. Clause 6, page 12, line 18, omit "determinations; and" and insert "determinations.".
5. Clause 6, page 12, line 19, omit all words and expressions on this line and insert—  
"(3A) A public authority, in performing a function under this Act or any other Act, must not contravene a management plan.".
6. Clause 15, page 36, after line 27 insert—  
"(4) Despite anything else in this section, the Secretary must make a critical habitat determination in respect of an area if—
  - (a) the area includes a listed taxon or community of flora or fauna that is critically endangered; or
  - (b) the area includes a listed taxon or community that is endemic to Victoria; or
  - (c) the area includes a listed taxon or community that is the subject of a specific conservation program, the cessation of which would result in the taxon or community becoming vulnerable, endangered or critically endangered within 5 years.  
(5) A critical habitat determination must be made under subsection (4) within 12 months of the taxon or community of flora or fauna being specified in the Threatened List.".
7. Clause 15, page 36, line 28, after "**Committee**" insert "**and the public**".
8. Clause 15, page 36, line 29, after "Committee" insert "or any person".
9. Clause 15, page 37, line 4, after "Committee" insert "or person".
10. Clause 15, page 37, line 8, after "Internet" insert "within 12 months of a recommendation".
11. Clause 15, page 39, line 33, omit "habitat." and insert "habitat, including—".

12. Clause 15, page 39, after line 33 insert—
- "(a) measures that would reasonably be expected to protect a taxon or community, halt its decline and enhance recovery; and
  - (b) measures that mitigate or halt threatening processes."
13. Clause 16, after line 19 insert—
- "(3A) The Secretary, within 12 months of a taxon or community of flora or fauna or potentially threatening process being specified in the Threatened List or the Processes List, must make a management plan in respect of the listed taxon, community or process if—
    - (a) the taxon or community is endangered or critically endangered; or
    - (b) the threats to the taxon or community include activities, works or operations undertaken by or on behalf of a public authority; or
    - (c) the taxon or community is endemic to Victoria; or
    - (d) in the opinion of the Secretary based on advice received from the Committee—
      - (i) the taxon is ecologically significant; or
      - (ii) the process is significant.
  - (3B) The Secretary must consult with the Committee in preparing a management plan.
  - (3C) The Secretary must publish on the Internet any advice received from the Committee in preparing a management plan."
14. Clause 17, after line 27 insert—
- "(1A) A management plan must provide for the following—
    - (a) measures to maintain and protect specified levels of sufficient habitat for the taxon or community of flora or fauna;
    - (b) measures that are reasonably expected to protect, halt the decline and promote the recovery of the taxon or community of flora or fauna;
    - (c) measures that mitigate or halt the potentially threatening process;
    - (d) if a critical habitat determination has been made in relation to a taxon or community—any specified activities, works or operations that could adversely affect or otherwise threaten the taxon or community;
    - (e) if a critical habitat determination has not been made in relation to a taxon or community—actions to be undertaken to consider whether a critical habitat determination should be made in relation to the taxon or community, including measures to protect critical habitat upon a determination."
15. Clause 20, line 25, omit "made." and insert "made; or".

16. Clause 20, after line 25 insert—

"(c) any other habitat in an area of Victoria."

17. Clause 20, page 44, after line 19 insert—

"(5) Despite anything else in this Division, the Minister must make a habitat conservation order in respect of an area if—

(a) a critical habitat determination or management plan has been made in respect of the area but the conservation status of a taxon or community of flora or fauna in the area has not improved within three years of the making of the determination or plan; or

(b) the area is subject to a critical habitat determination but the Secretary has not entered into a critical habitat agreement within 18 months of the making of the determination; or

(c) the area is subject to a critical habitat determination and a catastrophic event has had or will have a significant impact on a critically endangered taxon or community of flora or fauna in the area.

(6) A habitat conservation order must be made under subsection (5)(c) within 3 months of the Minister becoming aware of the catastrophic event.

(7) The Minister must consult with the Committee in preparing a habitat conservation order.

(8) If the Minister considers whether to make a habitat conservation order under this Division but does not make an order, the Minister must publish on the Internet the reasons for not making an order, including the scientific reasons why an order was not made."