

*Authorising provision*

3. This Order is made under Section 53 of the Flora and Fauna Guarantee Act 1988.

*Revocation*

4. This Order revokes the Order entitled "Authorisation to take by angling, trade in or keep listed fish", made on 17 August 1993 and published in the Government Gazette on 19 August 1993 (page 2325).

*Taking by angling, trading in, or keeping of listed fish authorised subject to terms and conditions*

5. The taking by angling, trading in or keeping of the fish specified in Column 1 of the Schedule (being members of listed taxa of fauna) in accordance with the Fisheries Act 1968, and any regulations under that Act as in force from time to time, is authorised in accordance with the terms and conditions specified in Column 2 of the Schedule.

SCHEDULE

Column 1—Fish	Column 2—Terms and Conditions
Murray cod ( <i>Maccullochella peelii</i> )	<p>1. The minimum size limit of 50 centimetres specified in the Fisheries (Recreational) Regulations 1992 is extended to apply throughout Victoria.</p> <p>2. A bag limit of two Murray cod per person per day is to apply throughout Victoria.</p> <p>3. A close season on the taking of Murray cod is to apply to all Victorian waters during the period from 1 September to 30 November in each year.</p> <p>4. Murray cod must not be sold during the closed season. This ban does not apply to the sale of fry or fingerlings from premises licensed under Part V of the Fisheries Act 1968.</p>
Macquarie perch ( <i>Macquaria australasica</i> )	A person must not take from Lake Eildon and its inflowing waters during the period from 8 October 1996 until 18 December 1999.

Australian grayling ( <i>Prototroctes maraena</i> )	
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Dated 1 October 1996

Responsible Minister:

MARIE TEHAN  
Minister for Conservation and Land Management

ANNETTE WILTSHIRE  
Acting Clerk of the Executive Council

**Flora and Fauna Guarantee Act 1988  
FLORA AND FAUNA GUARANTEE  
(EXTRACTIVE INDUSTRIES  
DEVELOPMENT) ORDER 1996**

The Governor in Council makes the following Order:

*Title*

1. This Order may be cited as the Flora and Fauna Guarantee (Extractive Industries Development) Order 1996.

*Purpose*

2. The purpose of this Order is to—
- (a) authorise the taking of protected flora where that taking is a result of or incidental to search or extraction works authorised by a search permit or a work authority issued under the Extractive Industries Development Act 1995; and
  - (b) specify terms and conditions to apply to the taking of flora in the course of authorised works to ensure that the taking is ecologically sustainable.

*Authorising provision*

3. This Order is made under Section 48 (3) of the Flora and Fauna Guarantee Act 1988.

*Definitions*

4. In this Order—  
"authorised works" means any works or incidental operations which may be lawfully carried out under the terms and conditions of a search permit or work authority issued under the Extractive Industries Development Act 1995;

"forest block" means a unit of land which has been determined according to CNR Standing Instruction M-104 dated 3/10/1980 ("Subdivision of Forest Districts into Territorial Units for Management Purposes"), and which is shown on map FORMB100 in the Geographic Information System library of the Department of Natural Resources and Environment;

"grasstrees" means plants of the taxon *Xanthorrhoea*;

"landholder" means the owner of the land or a person who has been granted a lease by the owner of the land;

"private land" means land held under freehold title by anyone other than a public authority;

"quarry" has the same meaning as in the Extractive Industries Development Act 1995;

"rehabilitation work" means action that is carried out in disturbed areas so as to ensure that the conservation objectives of this Order are achieved;

"restricted Crown land" has the same meaning as the Mineral Resources Development Act 1990;

"roadmaking" means the construction or maintenance of a road or track;

"sphagnum moss" means plants of the taxon *Sphagnum*;

"the Act" means the Flora and Fauna Guarantee Act 1988;

"tree-ferns" means plants of the taxa *Dicksonia antarctica*, *Cyathea* and *Todea barbara*.

*Conservation Objectives*

5. (1) The general conservation objectives of this Order are—
- (a) the objectives in section 4 (1) (a) to (e) of the Flora and Fauna Guarantee Act 1988; and
  - (b) to ensure that, across the forest block, each species and sub-species of protected flora that is taken under this Order and the community of which the flora is a member or part is retained in a state that is no less viable at the end of the

taking and any related rehabilitation work than it was before the taking occurred.

- (2) The specific conservation objectives of this Order are to ensure that, beyond the short-term changes associated with the taking and any related rehabilitation work,—
  - (a) at each point of disturbance, including each individual quarry and access route, but not including permanent clearings such as permanent roads, the species mix that occurred there prior to the taking is retained or restored; and
  - (b) across the forest block, the taking and any related rehabilitation work result in no decrease in the abundance of any rare or threatened flora; and
  - (c) across the forest block, there is no decrease in the genetic diversity of any species indigenous to the area; and
  - (d) there is no increase in the distribution or abundance of organisms, including plants, animals and pathogens, that are not indigenous to the area; and
  - (e) across the forest block, the habitat characteristics that existed prior to the commencement of the taking are maintained by ensuring that factors such as the hydrological conditions, soil and geomorphological conditions and vegetation structure are not materially altered; and
  - (f) animals that are part of the community of which the protected flora is a member or part, are not disturbed in a way which could threaten their reproduction or long term presence in the area.

*Authority to take protected flora where extractive industry is the subject of an Environment Effects Statement*

6. (1) The Governor in Council authorises any person who undertakes authorised works which have been the subject of an Environment Effects Statement under the Environment Effects Act 1978 to take protected flora other than tree-ferns, grasstrees and sphagnum moss for sale, if the taking is as a result of or incidental to the carrying out of those works, and if—
- (a) the Environment Effects Statement has been carried out under any directions of and guidelines for the preparation of such statements issued by the Minister administering the Environment Effects Act 1978; and
  - (b) any matters required to be investigated were so investigated and the Minister administering the Flora and Fauna Guarantee Act 1988 had the opportunity to comment on any matters investigated including making submissions to an enquiry by a panel (if any) appointed under Section 9 of the Environment Effects Act 1978; and
  - (c) the views of the Minister administering the Flora and Fauna Guarantee Act 1988 are considered by the Minister administering the Extractive Industries Development Act 1995 prior to approving any work authority under the Extractive Industries Development Act 1995.
- (2) Sub-clause (1) applies from the time that the work authority issued under the Extractive Industries Development Act 1995 takes effect.

*Authority to take protected flora where Ministerial consent already given searching on restricted Crown land and extraction on any Crown land*

7. (1) The Governor in Council authorises any person to take flora from Crown land other than a

critical habitat, as a result of or incidental to the carrying out of authorised works, if the Minister for Conservation and Land Management—

- (a) in the case of searching for stone on restricted Crown land, has given consent to search for stone on the restricted Crown land (as required under section 12 of the Extractive Industries Development Act 1995); or
- (b) in the case of extraction on any Crown land, has given consent to carry out the extractive industry on the Crown land (as required under section 19 (2) (e) of the Extractive Industries Development Act 1995)—

and before giving either type of consent has considered the objectives of this Order and Section 48 (4) of the Act.

- (2) Sub-clause (1) applies from the time that the search permit for restricted Crown land or the work authority for extraction on any Crown land, as the case may be, issued under the Extractive Industries Development Act 1995, takes effect.

*Authority to take protected flora—general*

8. (1) The Governor in Council authorises any person who undertakes authorised works on any type of land to take protected flora from that land as a result of or incidental to the carrying out of those works, except as provided for in sub-clauses (2), (3) and (4).
- (2) Sub-clause (1) does not authorise a person to take for sale, tree-ferns, grasstrees, or sphagnum moss.
  - (3) Sub-clause (1) does not authorise a person to take protected flora if the flora is taken from a critical habitat declared under section 20 of the Act, unless the works have been the subject of an Environment Effects Statement in accordance with clause 6.

(4) Sub-clause (1) does not authorise a person to take protected flora if the flora is taken from a member of a species or community listed in Schedule 2 of the Act or from land which has been identified to the local section of the planning scheme established under the Planning and Environment Act 1975 as a site of flora or fauna significance, and if—

- (a) the activity is extraction or searching involving drilling, trenching, costeaning, bulk sampling or roadmaking; and
- (b) in the case of private land, the landholder objects to the taking—  
unless—
- (c) the works have been the subject of an Environment Effects Statement in accordance with clause 6; or
- (d) consent to those works has been received from the Minister for Conservation and Land Management in accordance with clause 7.

*Terms and conditions*

9. A person authorised under clauses 6, 7, or 8 to take protected flora must—

- (a) prior to receiving authorisation under the Extractive Industries Development Act 1995 have planned the taking and any related rehabilitation work in such a way that it is reasonable to expect that the conservation objectives of this Order will be achieved; and
- (b) conduct the taking and any rehabilitation work in such a way that it is reasonable to expect that the conservation objectives of this Order will be achieved; and
- (c) undertake rehabilitation work in accordance with any conditions established under the Extractive Industries Development Act 1995.

Note: Where the taking of flora requires an authorisation under the Act but is not authorised by this Order, the taking may be authorised by a permit or licence under section 48 of the Act.

Dated 1 October 1996

Responsible Minister:  
MARIE TEHAN  
Minister for Conservation and  
Land Management

ANNETTE WILTSHIRE  
Acting Clerk of the Executive Council

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