

# Flora and Fauna Guarantee Act 1988

## Public authority duty

Every level of government has a role to play in reducing impacts on Victoria's biodiversity

### What is the public authority duty?

The recently amended *Flora and Fauna Guarantee Act 1988* contains an obligation or duty on public authorities and ministers to consider potential biodiversity impacts when exercising their functions (set out in new section 4B). This reflects the Victorian Government's commitment to embed biodiversity consideration in government decision making.

### What must public authorities consider?

The act requires that in performing any of their functions that may reasonably be expected to impact on biodiversity, including a function under any act, ministers and public authorities must give proper consideration to the act's objectives, so far as is consistent with the proper exercising of their functions.

Additional matters are also specified to be considered to clarify the objectives, including the Biodiversity Strategy, relevant action statements, management plans or critical habitat determinations.

The types of potential impacts on biodiversity that should be considered are also specified, these include:

- long and short term impacts
- detrimental and beneficial impacts
- direct and indirect impacts
- cumulative impacts
- potentially threatening processes.

The act establishes tools to provide guidance to public authorities in considering biodiversity, these include:

- **Ministerial guidelines** to clarify the duty and support public authorities with further information.
- **Public authority management agreements** made with the Secretary to DELWP, which can provide certainty that biodiversity impacts are being sufficiently considered and being managed and can streamline approval requirements.

### What is a public authority?

Public authorities are defined as bodies established for a public purpose under any act, including administrative offices, departments, councils, public entities and state-owned enterprises.

### What if the duty conflicts with other obligations?

The duty does not override an authority's existing statutory obligations; biodiversity considerations should be integrated as far as possible.

There must be a reasonable expectation of biodiversity impacts for the duty to be relevant to an authority's functions.

Public authorities should screen their decisions, policies, programs and processes for potential biodiversity impacts. The degree of impact assessment should be proportional to the potential for impacts.

### What are the guidelines?

Ministerial guidelines will provide practical steps to support public authorities and ensure biodiversity is given proper consideration. These are being developed and will involve a consultation process.

### How else is biodiversity protected?

The act also contains protections for threatened species and communities. Other instruments, such as the native vegetation removal regulations require permits to remove, destroy or lop native vegetation which provides habitat for plants and animals. These are primarily implemented through local council planning schemes.

The duty supports these protections and encourages biodiversity to be considered early in decision making, before regulatory approval is required.

The amendments also enable the Minister for Environment and Climate Change to request public authorities to provide information to ensure that the duty is being performed, or to ensure that an action taken (or to be taken) by a public authority does not threaten a listed taxon, community or critical habitat.

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### More information

The *Flora and Fauna Guarantee Act 1988* is available at: [legislation.vic.gov.au](http://legislation.vic.gov.au)

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Printed by <Insert Name of printer - Suburb>

ISBN XXX-X-XXXXX-XXX-X (print) [How to obtain an ISBN or an ISSN](#)

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