Administration of the
Flora and Fauna Guarantee Act 1988

VICTORIA

Victorian
Auditor-General

Administration of the *Flora and Fauna Guarantee Act 1988*

The Hon. Robert Smith MLC
President
Legislative Council
Parliament House
Melbourne

The Hon. Jenny Lindell MP
Speaker
Legislative Assembly
Parliament House
Melbourne

Dear Presiding Officers

Under the provisions of section 16AB of the *Audit Act 1994*, I transmit my performance audit report *on Administration of the Flora and Fauna Guarantee Act 1988.*

Yours faithfully

D D R PEARSON
Auditor-General

1 April 2009

Foreword

The Flora and Fauna Guarantee Act 1988 (the Act) was passed to conserve threatened species and ecological communities and to minimise activities that posed a threat to Victoria's ecosystems.

In the 21 years since its inception, 653 species have been listed as threatened under the Act. By contrast, the department's own 'advisory' list contains over 2 200 species, many of which would qualify for threatened status under the Act.

Of those species listed as threatened, less than one-half have had an action statement prepared, and only a handful of these action statements have been reviewed and updated.

The department's review of the Act in 2002 found it was no longer effectively leading measurable conservation and protection activities for the State. The Government's green paper, *Land and Biodiversity at a Time of Climate Change*, acknowledges the need for legislative reform (both state and federal) and the proposed white paper should identify the extent to which legislative change is required.

However calls for legislative reform should not mask the underlying systemic issues identified in this audit. First, concerted effort is required to develop comprehensive, reliable information on the conservation status of threatened and vulnerable species. This needs to be complemented by an appropriate outcome and output performance measurement framework.

Second, the full range of powers provided in the Act must be used as intended. To the extent that these powers are found to be ineffective, more timely changes are required, to maintain a contemporary and effective framework for protection.

D D R PEARSON
Auditor-General

1 April 2009

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1 Audit summary

1.1   Introduction

Conserving biodiversity is core to responsible environment and natural resource management and is fundamental to maintaining both quality of life and economic well-being, both now and in the future.

The *Flora and Fauna Guarantee Act 1988* (the Act) is the primary Victorian legislation providing for conservation of threatened species and ecological communities, and the management of processes that threaten the sustainability Victoria's native flora and fauna. The Act establishes a listing process. Once an item is listed the Act sets out a range of management processes and conservation tools that can be implemented to protect and conserve species.

Since the Act was passed in 1988, 653 plant and animal species, communities and threatening processes have been listed.

The objective of the audit was to review the Department of Sustainability and Environment's (the department) administration of the *Flora and Fauna Guarantee Act 1988* and to assess how effective the processes and actions developed under the Act have been in preserving Victoria's native flora and fauna.

1.2   Conclusions

The full range of 'management processes' and 'conservation and control measures' available in the Act has not been used.

Action statements are the primary tools in the Act being used to protect and conserve threatened flora and fauna. However, the effort directed to listing threatened species and processes has not been matched by effort to develop action statements, to monitor the implementation of actions, or assess their effectiveness. The gap between listed items and items with action statements continues to widen.

The lack of baseline data and outcome or output performance measures means it is not possible to conclude whether the Act has achieved its primary objectives. The available data, which is patchy, indicates that it has not.

1.3   Findings

1.3.1   The listing process

The department has invested most effort in listing threatened species. However, there is duplication of processes within the department and with the Commonwealth Government's listing process. The time taken to list an item, while within the three year (156 weeks) timeframe specified under the Act, continues to exceed the department's internal benchmark of 31 weeks. The internal benchmark is an optimum period that requires each stage to be completed as quickly and reasonably as possible. This benchmark could not always be met in part due to factors beyond the department's control, such as the Scientific Advisory Committee requiring multiple meetings to consider a nomination.

Over 800 items have been nominated for listing and 653 have been listed under the Act. However the department's 'advisory' list (a separate list not subject to the listing process), contains over 2 200 species of flora and vertebrate fauna. Many of the species on the advisory list are likely to satisfy the criteria for the 'threatened' list maintained under the Act.

The listing process while conforming with the Act is compromised by a lack of up-to-date scientific data and by limited stakeholder participation. The department's information systems relating to conservation and biodiversity are incomplete and disjointed. Major system development and integration projects are underway to address current shortcomings.

1.3.2   Conservation tools

The various management processes, conservation and control measures available under the Act to conserve and protect flora and fauna are not being used, largely because of their perceived complexity and difficulty of administering these provisions. The department has relied on provisions in other environmental legislation, strategies, policies and plans in preference to those available under the Act to conserve and protect flora and fauna.

While 'action statements' are mandatory, their development and finalisation has been protracted. There is no time limit in the Act for these tools to be finalised—'as soon as possible' is the time standard set. At the current rate of progress, with existing resources, it will take a further 22 years for the department to complete action statements for the 653 items currently listed as threatened.

1.3.3   The Act

The Act was reviewed by the department in 2002. This review concluded that 'the existing regulatory and policy framework for the protection of threatened species in Victoria is in need of a major overhaul.' A number of recommendations to improve the Act resulted from this review, but no amendments to the Act have been made.

The state government's April 2008 green paper, *Land and Biodiversity at a Time of Climate Change,* acknowledges the need for legislative reform (State and Federal) and the proposed white paper will identify the extent to which legislative change is required.

1.4   Recommendations

The department should:

- review the internal timeframes it sets for listing, against the resources it applies and the processes it adopts, to confirm they are realistic
- continue to build its knowledge-base on threatened species, causes of their decline and how best to mitigate threats to them; and expedite the transfer of information held on manual files to the ABC system
- formalise its collaboration on conservation activity with the Federal Government and seek a joint agreement to eliminate duplication in the listing process (**Recommendation 4.1**).

The department should:

- assess the resources it applies to developing, monitoring and reviewing action statements and establish a prioritised action plan to address the backlog of listed items with no action statements
- include in new and revised action statements the processes by which it will monitor progress and evaluate the effectiveness of each initiative within the action statement
- review the efficacy of conservation and protection tools available under the Act
- assess whether the listing process is the most effective and efficient means of protecting species and communities
- develop a suite of output efficiency and outcome effectiveness measures to monitor and assess its conservation efforts (**Recommendation 5.1**).

2 Audit Act 1994 section 16 – submissions and comments

2.1 Introduction

In accordance with section 16(3) of the *Audit Act 1994* a copy of this report, or relevant extracts from the report, was provided to the Department of Sustainability and Environment with a request for comments or submissions.

The comments and submissions provided are not subject to audit nor the evidentiary standards required to reach an audit conclusion. Responsibility for the accuracy, fairness and balance of those comments rests solely with the agency head.

2.2 Submissions and comments received

RESPONSE by the Secretary, Department of Sustainability and Environment

General

DSE welcomes the Audit Report and broadly agrees with its key conclusions and findings.

DSE is currently reviewing the FFG Act and will make recommendations to Government in 2010 regarding options for legislative change. The review will examine opportunities to improve administrative efficiency and effectiveness, in terms of biodiversity conservation outcomes, of Victorian legislation and associated programs, while noting the Government's commitment to reduce the regulatory burden. Importantly, the review will address the specific issues raised by the Auditor General in this report.

As an example, consideration will be given to:
- *Streamlining the listing provisions to ensure that the FFG Threatened List and Processes List are as comprehensive as current scientific knowledge allows, avoiding the current duplication involving DSE Advisory Lists, and facilitating better alignment with the lists under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.*
- *Broadening the Action Statement provisions to allow for region-based plans covering all threatened species and communities within a given region, potentially reducing the number of separate plans that need to be prepared, consulted and approved.*

RESPONSE by the Secretary, Department of Sustainability and Environment – continued

General

- *Modernising the Public Authority Management Agreement provisions to allow for "best practice" codes or guidelines that could be adopted by agencies, industries, enterprises and other incorporated bodies. Such codes or guidelines could be drafted by the relevant organisation, negotiated and endorsed by DSE and linked to statutory approvals or authorisations to reduce the regulatory burden for the organisations concerned.*

Specific responses to recommendations

VAGO recommendation	DSE response
Review the internal timeframes it sets for listing, against the resources it applies and the processes it adopts, to confirm they are realistic.	*DSE will complete a review of internal timeframes by the end of 2009.*
Continue to build its knowledge base on threatened species, causes of their decline and how best to mitigate threats to them; and expedite the transfer of information held on manual files to the ABC system.	*DSE will continue to invest, to the extent possible given available budget, in survey, monitoring and research focused on key threatened species and the process that threaten them. Further development of DSE's major biodiversity information systems (the Victorian Biodiversity Atlas, the Native Vegetation Tracking system and the Actions for Biodiversity Conservation (ABC) system) is proceeding and will continue to be supported, subject to resource availability and competing priorities. Wherever relevant, hardcopy information will be transferred to digital systems by the end of 2011.*
Formalise its collaboration on conservation activity with the Federal Government and seek a joint agreement to eliminate duplication in the listing process.	*DSE will consult with the Australian Government Department of the Environment, Water, Heritage and the Arts with a view to preparing and seeking endorsement for a report identifying opportunities to align the listing process and outlining the steps to achieve this by the end of 2010.*

Assess the resources it applies to developing, monitoring and reviewing Action Statements and establish a prioritised action plan to address the backlog of listed items with no action statements.	*By the end of 2009, DSE will* • *Review the resources available for Action Statement preparation, monitoring and review.* • *Review the content of Action Statements and process for preparing, monitoring and reviewing them.* • *Review and publish the criteria for prioritising items for Action Statement.*
Include in future new or revised Action Statements the processes by which it will monitor progress and evaluate the effectiveness of each initiative within the Action Statement.	*By the end of 2011, DSE will develop a cost-effective monitoring and evaluation framework for actions included in Action Statements. Once this has been developed, all subsequent Action Statements prepared by DSE will include monitoring and evaluation criteria and processes.*
Review the efficacy of conservation and protection tools available under the Act.	*DSE will review and report on the efficacy of conservation and protection tools available under the Act as part of the current review by the end of 2010.*
Assess whether the listing process is the most effective and efficient means of protecting species and communities.	*DSE will assess whether the listing process is the most effective and efficient means of protecting species and communities as part of the current review by the end of 2010.*
Develop a suite of output efficiency and outcome effectiveness measures to monitor and assess its conservation efforts.	*DSE will work with Australian and Victorian Government agencies, including Parks Victoria and the Catchment Management Authorities, to develop and report against a set of natural resource management indicators by the end of 2011. This will be done in conjunction with similar initiatives driven by the Land and Biodiversity White Paper and natural resource management investment programs such as Caring for Our Country.*

3 Background

At a glance

The audit reviewed the department's administration of the *Flora and Fauna Guarantee Act 1988* in order to assess how effective its actions have been in preserving the state's native flora and fauna.

The Act provides for species to be listed as 'threatened'. This status enables the department to use a variety of management tools and controls set out in the Act to protect and preserve flora and fauna.

At the time of audit there were 653 items listed as threatened species, communities or threatening processes. The majority of listings, 88.5 per cent are threatened species.

The Act requires an 'action statement' be prepared 'as soon as possible' after listing. Of the 653 listed items only 42 per cent have action statements.

3.1 Introduction

Victoria's biodiversity is complex. There are thousands of native species in hundreds of ecological communities.

Many plants and animals are threatened, ranging from the Blue Whale to the Eltham Copper Butterfly. Communities of plants and animals such as native grasslands, rainforests, some woodlands and alpine bogs are also under threat with additional risks associated with climate change and natural disasters.

3.1.1 Legal and administrative framework

Victoria protects native biodiversity with these Acts:
- *Flora and Fauna Guarantee Act 1988*
- *Catchment and Land Protection Act 1994*
- *Planning and Environment Act 1987*
- *Wildlife Act 1975*
- *National Parks Act 1975*
- *Environmental Effects Act 1978*
- *Victorian Environmental Assessment Council Act 2001.*

The Commonwealth Government legislated nationally for the protection of biodiversity through the *Environment Protection and Biodiversity Conservation Act 1999*.

The Department of Sustainability and Environment (DSE) is primarily responsible for monitoring, protecting and conserving Victoria's flora and fauna.

3.2 The *Flora and Fauna Guarantee Act 1988*

The *Flora and Fauna Guarantee Act 1988* (the Act) is the primary Victorian legislation providing for the conservation of threatened species and ecological communities, and for the management of processes that are threatening to Victoria's native flora and fauna.

Threatened species and communities listed are generally those that have experienced serious population decline and are in danger of extinction. This usually results from habitat loss or threats from invasive or introduced exotic species such as foxes, rabbits and weeds. A potentially threatening process is one that poses a significant threat to the survival or evolutionary development of a range of flora or fauna.

The Act applies to public and private land, and:
- provides a process to 'list' threatened species, ecological communities and potentially threatening processes
- establishes the Scientific Advisory Committee (SAC) to manage the listing process
- provides a range of protection and conservation tools
- requires the development of a Flora and Fauna Guarantee Strategy.

3.2.1 Listing

The Act provides for three lists, to categorise the threat to each species or community:

- **the 'excluded' list**—applies to native flora and fauna species that are not to be conserved because they constitute a serious threat to the economy, for instance due to their toxic impact on other species, or to human health due to their capacity to transfer disease
- **the 'threatened' list**—the species and communities of native flora and fauna that are threatened
- **the 'process' list**—the potentially threatening processes for example, the introduction of pests and weeds, inappropriate fire regimes and urbanisation.

There is only one item on the excluded list—'human disease organisms'. Figure 3A provides a summary of the other types and numbers of listings since the Act was created.

Figure 3A
Number of listed items categorised by listing type

Type of listing	Number	Proportion
Threatened species	579	88.5 %
Threatened community	36	5.6 %
Potentially threatening process	38	5.9 %
Total listed	**653**	**100%**

Source: Victorian Auditor-General's Office, using data provided by DSE.

In addition to the three lists specified under the Act, the department maintains an 'advisory list'. The advisory list has 2 249 species of flora and vertebrate fauna.

Unlike the single 'threatened' conservation status of items listed under the Act, the advisory list categorises flora and fauna by a variety of conservation statuses such as 'endangered', 'vulnerable', 'rare', 'near threatened' and 'extinct in Victoria'. Also, unlike the formal process of listing under the Act, no legal requirements flow from inclusion of a species on the advisory list. The department consults the advisory list when calculating native vegetation values and calculating 'offsets'—the replanting of native vegetation to replace cleared vegetation—under the Victorian Native Vegetation Framework.

The nomination process

The listing process under the Act commences with the submission of a nomination by the department or members of the public to SAC. The department does not publicise the name of the nominator. This is to avoid any influence that their identity might have on public submissions in response to SAC's preliminary recommendations. Nominations can either apply to add an item to or remove an item from the threatened list or the process list.

The Scientific Advisory Committee

The SAC is the expert scientific advisory committee established under the Act. SAC's role is to:

- assess nominated threatened species, communities and threatening processes and advise the Minister for Environment and Climate Change on whether these items should be listed
- prepare and maintain listing criteria
- provide advice on the preparation and amendment of action statements
- advise the minister on other flora and fauna conservation matters.

The committee assesses each nominated item for its validity against one or more of the primary listing criteria in the Act.

After each assessment, the committee makes a preliminary recommendation that is advertised and is available for public comment for at least 30 days. After considering any further evidence provided during the public comment period, a final recommendation is made and publicly advertised.

The Victorian Catchment Management Council is advised of the recommendation and is also provided with an opportunity to comment. The council's comments are forwarded to the minister with a final recommendation. The minister has 30 days from the receipt of the committee's recommendation to make a decision.

On the recommendation of the minister, the Governor-in-Council approves the inclusion of the item on the threatened flora and fauna, or threatening process, lists and it is published in the *Victorian Government Gazette*.

3.2.2 Protection and conservation tools

The Act also provides for 'management processes' and 'conservation and control measures to conserve and protect native flora and fauna listed as threatened species or communities. The options available under the Act are:

- **action statements**—setting out the management prescriptions to protect listed threatened species, communities and manage threatening processes
- **flora and fauna management plans**—prepared in consultation with landholders or water managers with the purpose of designating landowners' and water managers' roles and actions in protecting flora and fauna
- **public authority management agreements**—assign roles and actions to authorities to effectively manage listed items
- **critical habitat determinations**—declarations of particular habitats essential for the survival of a species or a community of flora or fauna
- **interim conservation orders**—issued to change the practice and behaviour of landholders and planning authorities, to protect threatened flora and fauna
- **controls**—protocols and/or regulations developed and enacted for the purpose of protecting flora and listed fish.

Action statements

The Act requires that after a species, community or potentially threatening process has been listed, an 'action statement' must be prepared as soon as possible.

Of the 653 threatened species, communities and threatening processes items listed under the Act:

- 313 (47 per cent) have no action statement
- 278 (42 per cent) have approved action statements
- 76 (11 per cent) have action statements awaiting approval.

In some cases, the department has prepared a single action statement for a group of species or communities so it can address common issues and develop broader programs of action. Figure 3B shows the status of action statements for listed items.

Figure 3B
Status of action statement development for listed items

■ Approved ■ Not Commenced ■ Prepared (Awaiting Approval)
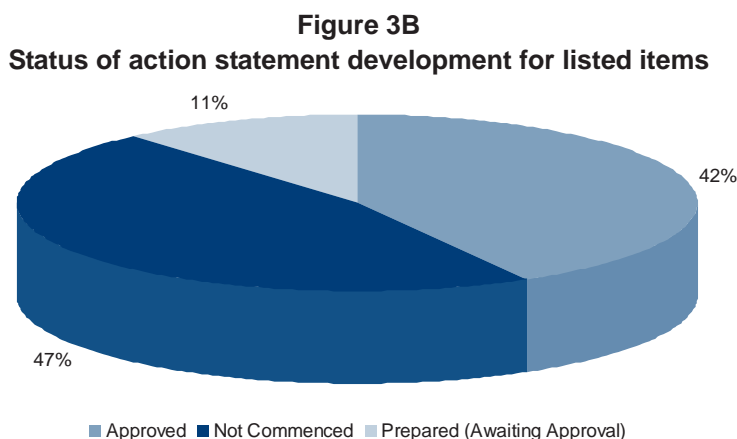
Source: Victorian Auditor-General's Office, using data provided by DSE.

Other tools

None of the other management processes or conservation and control measures provided for under the Act are mandatory. The use of tools has been limited to:

- public authority management agreements
- a critical habitat determination
- controls over the handling of protected flora and listed fish.

3.2.3 The Flora and Fauna Guarantee Strategy

The Act requires the department to develop a Flora and Fauna Guarantee Strategy to guide the effective implementation of its responsibilities under the Act and to support the achievement of effective biodiversity outcomes.

The Flora and Fauna Guarantee Strategy sets out how the flora and fauna conservation and management objectives are to be achieved through the effective use of the listing process, action statements and other protection and conservation tools prescribed in the Act.

3.3   Information systems

The effective administration of the Act requires the collection, capture and maintenance of appropriate information relevant to the conservation of native flora and fauna. This information allows the department to:

- determine the population status and trends of Victoria's native flora and fauna
- identify flora and fauna with populations approaching an unsustainable level
- identify threatening processes.

The department collects and maintains information in a number of systems:

- electronic databases recording the distribution of Victorian flora and fauna:
  - Atlas of Victorian Wildlife
  - Victorian Flora Information System
  - Aquatic Fauna Database
  - Victorian Rare or Threatened Plant Population Database

- Actions for Biodiversity Conservation (ABC) system—a web-based information system to store, update and retrieve information about actions to recover threatened species and communities
- site registers that maintain information on flora and fauna in the regions
- manual files of documents on listed species, communities and threatening processes
- native vegetation tracking system.

Although the department's information systems relating to conservation and biodiversity are incomplete and disjointed, major system development and integration projects are underway to address some current shortcomings.

3.4   This audit

3.4.1   Audit objective, scope and method

The objective of the audit was to review the department's administration of the *Flora and Fauna Guarantee Act 1988* to assess how effective its actions have been in preserving the state's native flora and fauna.

The audit reviewed how the department:

- identified and listed threatened species, communities and threatening processes
- engaged and managed the SAC
- applied tools available under the Act to support the protection and conservation of listed flora and fauna
- developed and implemented flora and fauna guarantee strategy
- monitored and reported on the processes and outcomes.

The impact of factors external to the Act itself and the challenges presented to the Act's effectiveness were also considered:

*   the impact of other environmental legislation and formal agreements to which Victoria and Australia are signatories
*   changes to contemporary best practice in conservation, including the influence of climate change and natural disasters on current approaches to conservation of native flora and fauna
*   stakeholder engagement.

To test the effectiveness of the department's administration of the Act, with particular reference to its use of its prescribed processes and tools, 14 cases were selected for analysis, consisting of eight threatened species, four threatening processes and two threatened communities. More detail on these cases is provided in Appendix A.

For each selected case study audit examined:

*   the department's management of the nomination process
*   the operation of SAC
*   assessment of nominations for listing against established criteria in the Act
*   public consultation on proposed listings
*   compliance with approval requirements
*   the preparation of action statements
*   measurement of outcomes
*   the use of other tools available under the Act
*   the department's implementation, monitoring and review of action statements and other tools used.

The audit was conducted in accordance with the Australian auditing standards applicable to performance audits and included tests and procedures sufficient to enable audit conclusions to be reached. The cost of the audit was $325 000. The cost includes staff time, overheads and printing.

4 The listing process

At a glance

Since the Act's proclamation in 1988 over 800 nominations have been submitted for consideration for listing.

Findings

- The listing process complies with the requirements of the Act.
- Considerable effort is invested administering the listing process however the department's own timeframes are not being met.
- Listing decisions are compromised by a lack of up to date scientific data and by limited stakeholder participation.
- Despite some evident collaboration and alignment of lists, duplication of effort arises from the state maintaining two lists and the commonwealth another similar list.

Recommendation

The department should:
- review the internal timeframes it sets for listing against the resources and processes applied
- improve its information systems
- work to eliminate duplication. **(Recommendation 4.1)**

4.1   Introduction

This section examines how efficiently and effectively the department has administered the listing process, including whether it complied with the requirements of the Act.

4.1.1   Listing activity

In the 20 years since the Act's proclamation over 800 nominations have been submitted for consideration by the Scientific Advisory Committee (SAC). Figure 4A shows a breakdown of nominations received yearly and the final decisions made regarding those nominations.

Figure 4A
Yearly breakdown of nominations received (1991–2008) and the final decisions made regarding those nominations
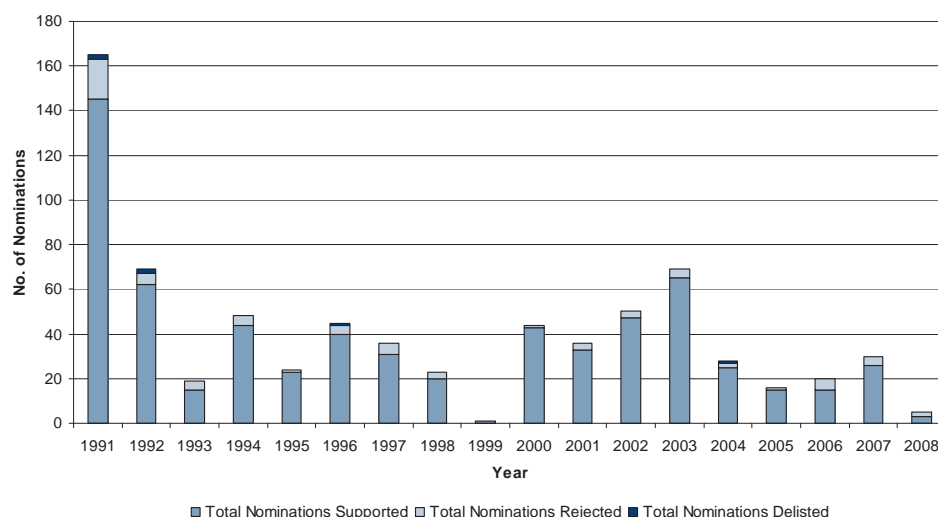
Source: Victorian Auditor-General's Office, using data provided by DSE.

The average number of nominations received per year since 1991 is 40. Of the nominations processed 90 per cent were supported for listing, 9 per cent were rejected and 1 per cent were supported for de-listing.

4.2   Compliance with the Act

To comply with the Act the department must:
- adhere to the nomination process outlined in the *Flora and Fauna Guarantee Act 1988* to identify threatened species and threatening process
- assess the nominations against established criteria and consult with the community and the Victorian Catchment Management Council to determine which nominated items should be listed

- ensure items listed are approved as required by the Act
- meet the timeframes specified by the Act.

To test compliance with the listing process, 14 listed items were examined. The examination showed that the processes used by the department to list threatened flora, fauna, communities and threatening processes complied with the requirements under the Act. Specifically, review of the 14 case studies identified that:

- all nominations received by the department were provided to the committee on a timely basis
- the nominations complied with all of the requirements under the Act and were therefore deemed eligible for consideration for listing
- all the formal approvals were sighted
- the timeframes specified by the Act were met.

4.3 Efficiency and effectiveness

The efficiency and effectiveness of the listing process is affected by its timeliness, the quality of the information available on which to make a decision and the resources applied to the process.

4.3.1 Timeliness

The Act mandates that SAC must make its final recommendation to either support or not support listing within three years of the nomination submission date. It also mandates that 30 days be allowed for public consultation and that the minister must make a decision within 30 days of receiving a recommendation from SAC.

The department has established its own timeframes. SAC is given a minimum three weeks to make a preliminary listing recommendation from the receipt of a nomination. The minimum timeframe for making a final recommendation from receipt of a nomination by SAC to the minister is 31 weeks. A more detailed outline of the listing process is provided in Appendix B. Figure 4B summarises the actual time taken for in the listing process against these two benchmarks.

Figure 4B
**Time to recommendation by SAC: average duration**

Process steps for listing items	Minimum timeframe for listing	Average time elapsed for all listed items
Nomination to preliminary recommendation	3 weeks	24 weeks
Nomination to final recommendation	31 weeks	45 weeks

Source: Victorian Auditor-General's Office.

The SAC has met on average five times per year, processing an average 40 nominations. There was an initial peak in the number of nominations requiring assessment by the SAC in the first few years which led to a higher number of meetings in 1991 and 1992.

Since that peak the processing times to finalise a listing have dropped marginally, but remain above the target set by DSE, as shown in Figure 4C.

Figure 4C
Average time elapsed (final decision)
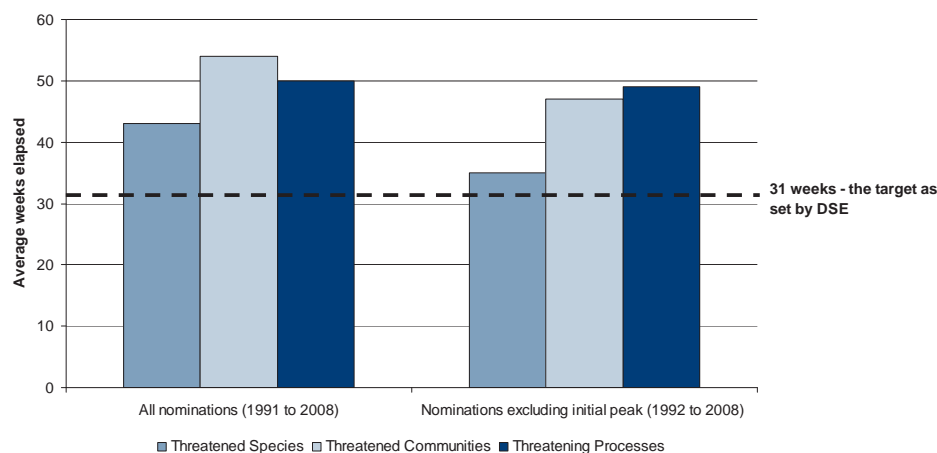
Source: Victorian Auditor-General's Office, using data provided by DSE.

A nomination to list a threatening process or threatened community generally requires greater analysis and consideration as it potentially impacts multiple species. Figure 4C confirms that nominations for threatened communities and threatening processes have taken more time to process.

This experience over a long period indicates that the internal benchmarks set by the department are not realistic, given current processes and resources. The unrealistically short timeframes in an effort to address the backlog of nominations may compromise the listing process by creating pressure to forgo some process and rush decisions.

4.3.2 Quality of information used to make a decision

Members of the SAC identified that access to current scientific data to underpin its decisions is difficult, as much of the information available on threatened species is over 20 years old, while information on marine invertebrates is not readily available.

Review of the range of information systems the department uses identified the following limitations:

- The quantity and quality of information held on each plant and animal is highly variable. For high-profile or iconic endangered plants and animals, the information was slightly better, but for many plants and animals it was limited and often out-of-date. Whilst for some there was no information at all.
- Population information recorded in the databases was largely obtained from sightings by members of the public or identified in research projects undertaken by government and non-government agencies. This data is subject to validation and expert review procedures to ensure accuracy.
- While assessments of 'quality' standards of native vegetation or habitat are now commonplace, there is limited information on the condition of most of Victoria's native flora and fauna.

A manual file is maintained on each listed item. In examining the 14 case studies, it was very difficult to locate all of the information relevant to the listing and management process in the manual files for the following reasons:

- all information relevant to the management of the threatened species or threatening processes was not always on one file
- drafts and irrelevant documents were included in the files
- some documents are missing
- documentation was not indexed and filed in date order
- no information was provided on the front of the file to indicate which stage of the process the item referred to—nomination, assessment, item listed, action statement prepared, action statement being delivered, or revised action statement in place.

The efficiency of managing listed items would be significantly improved by better records. In the absence of complete, reliable measurable information, the department does not have a clear picture of what is happening to many threatened species, and cannot be assured its decisions are soundly based. The department is developing electronic systems for managing information about the status, distribution, management priorities and management history.

4.3.3 Resources applied to the listing process

Members of the SAC interviewed expressed the view that its decision-making is also compromised by:

- limited stakeholder participation, as the process is subject to significant time pressure
- lack of relevant stakeholders for the bulk of terrestrial and marine invertebrates
- dilution of expertise in biodiversity due to reductions in staff in the regional offices of the department who research and provide information on threatened species and communities or threatening processes.

Examination of files and interviews with staff highlighted that the non-mandatory advisory listing process also consumes significant departmental resources.

The department has indicated that many of the items on the advisory lists are likely to meet the requirements for listing under the Act. The maintenance of advisory lists compensates for the non-comprehensive nature of the Act's list and the slow rate of listing. On this basis, applying resources to maintaining two lists with similar objectives and with potential for a large degree of overlap represents a duplication of effort. Consolidating the separate listing processes, using similar criteria and classifications, would be more efficient and cost effective.

Comparison between state and commonwealth legislation also highlights areas of overlap and the potential for duplication of responsibility and consequently, duplication of effort and resources.

The *Commonwealth Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) includes a listing process similar to Victoria's and uses recovery plans to manage listed items. Actions included in the commonwealth's plans, relating to Victoria's flora and fauna, are usually undertaken by the Department of Sustainability and the Environment.

The department indicated that 203 species, communities and potentially threatening processes are listed under both the *Flora and Fauna Guarantee Act 1988* and the EPBC Act. This means further duplication of effort between jurisdictions in developing action statements with the same measurable outcomes.

To align the commonwealth and state lists, the Federal Department of Environment, Water, Heritage and the Arts has established a 'Species Information Partnerships' initiative. This partnership has the objective of moving towards a national list of threatened species. In addition, it should reduce the duplication of assessment activities and allow limited conservation resources at both the national and state levels to be more effectively targeted. Work to achieve this objective is continuing.

4.4 Conclusion

The listing process complies with the requirements of the Act. However, it is not timely nor is it based on high-quality information. Duplication of effort has created inefficiencies in deploying already scarce resources:

- The department has invested considerable effort administering the mandatory listing process, nevertheless, the time taken to assess and list items significantly exceeds the minimum timeframes set by the department.
- Listing decisions are compromised by a lack of reliable, up to date scientific data and limited stakeholder participation.
- Despite some evident collaborative efforts and alignment of lists, duplication of effort arises from the maintenance of two listing processes by the state and one by the commonwealth.

Recommendation

4.1 The department should:

- review the internal timeframes it sets for listing against the resources it applies and the processes it adopts, to confirm they are realistic
- continue to build its knowledge-base on threatened species, causes of their decline and how best to mitigate threats to them
- expedite the transfer of information held on manual files to the 'Actions for Biodiversity Conservation' system (ABC)
- formalise its collaboration on conservation activity with the Federal Government and seek a joint agreement to eliminate duplication in the listing process.

5 Conservation tools

At a glance

A range of 'management processes' and 'conservation and control measures' are available to the department under the Act to protect and conserve listed native flora and fauna.

Findings

- The management processes mandated by the Act—the Flora and Fauna Guarantee Strategy and action statements—have been, and are being implemented, but other available enforcement tools have not been used.
- A 2007 review of the *Victorian Biodiversity Strategy* found that while the 1997 strategy articulated aspirational goals, it did not detail measurable objectives or provide adequate guidance on how to achieve those goals.
- At the current rate of listing it would take 22 years to develop action statements for the remaining listed items.
- There has been no systematic assessment of action statements to assess their effectiveness.
- There remain no relevant and appropriate performance measures to indicate whether the actions developed and implemented under the Act are effective.
- It is not possible to determine whether the conservation status of threatened species has improved because of their listing under the Act.

Recommendation

- The resources applied to action statements need to be reviewed and an action plan established to address the backlog of listed items with no action statements.
- Future and revised action statements need to include how progress will be monitored and how the effectiveness of each initiative will be measured.
- The management processes and conservation and control measures available under the Act need to be reviewed so that they are fit for purpose.
- A suite of output efficiency and outcome effectiveness measures to monitor and assess conservation efforts needs to be developed. **(Recommendation 5.1)**

5.1 Introduction

Listing a plant, animal or threatening process is the first step toward protection. The actions that follow from the listing process will determine whether listing a threatened species will have any practical effect on their conservation status.

The Act provides both 'management processes' and 'conservation and control measures' that can be used to protect Victoria's native flora and fauna.

The management processes include:

- flora and fauna guarantee strategy
- action statements
- flora and fauna management plans
- public authority management agreements
- critical habitat determinations.

The primary conservation and control measures are interim conservation orders (ICO) and controls over the handling of flora and listed fish.

The audit examined how effectively the department implemented the management processes, conservation and control measures established under the Act, and what impact this had on protecting and conserving threatened native flora and fauna.

5.2 Management processes

The Act requires the department to develop a Flora and Fauna Guarantee Strategy (the strategy) along with action statements for all species, communities of flora or fauna, or any potentially threatening processes as soon as possible after they have been listed.

These other management processes set out under the Act to protect and conserve 'listed' native flora and fauna are not mandated. However, it is the department's responsibility to determine which of these other management processes are appropriate to use for listed items.

5.2.1 The Flora and Fauna Guarantee Strategy

The Flora and Fauna Guarantee Strategy needs to be a comprehensive framework that supports achievement of effective biodiversity outcomes by providing an implementation plan for the delivery of measurable actions and outcomes.

The Act requires that the strategy include proposals for:
- guaranteeing the survival, abundance and evolutionary development in the wild of all species and communities of flora and fauna
- ensuring the proper management of potentially threatening processes
- an education program
- improving the ability of all relevant people to meet the flora and fauna conservation and management's quantifiable objectives.

The strategy may allow for specific needs in particular areas. The efficiency and effectiveness of this strategy must have regard for the flora and fauna conservation and management objectives with the minimum adverse social and economic impact with the rights and interests of landholders. The Act allows the department to amend the strategy.

The Victorian Biodiversity Strategy

In 1997 the department finalised The *Victorian Biodiversity Strategy* to fulfil its obligations under the Act.

A 2007 review of the strategy by the department found that it had produced a number of benefits including:
- providing a conceptual framework for understanding and planning biodiversity
- promoting the creation of tools such as the Actions for Biodiversity Conservation (ABC) system, to assist in preservation efforts
- influencing other government agencies to develop their own strategies and plans to manage biodiversity
- its use in local government planning schemes to determine requirements designed to protect native vegetation.

However, the review also found that while the 1997 strategy articulated aspirational goals, it did not detail measurable objectives or provide adequate guidance on how to achieve these goals.

This lack of clearly defined actions, timeframes, performance indicators and assigned responsibilities puts at risk the achievement of the strategy's broad goals. In addition, is it not possible to assess the success of actions undertaken.

Figure 5A summarises the results from the 2007 review against the five broad goals in the 1997 strategy.

Figure 5A
Results of departmental review of strategy

Goal	Achievement of goal
Goal 1: A reversal, across the entire landscape, of the long-term decline in the extent and quality of native vegetation, leading to a net gain, with the first target being no net loss by 2001.	The net loss is continuing. The only benchmark data available on the extent of native vegetation dates back to 1750. The clearing of land for agriculture and urban development has resulted in a 63% reduction in native vegetation since that time, including 80% of the cover on private land. However, there is no accurate data from 2003 to 2007. Rate of decline may have slowed between 1998 and 2002, but increased somewhat between 2003 and 2007, with a few small exceptions. Victoria's *Catchment Condition Report 2007* found that biodiversity was in good condition in the large areas of forests and parks that make up the majority of our public land but was poor and declining elsewhere.
Goal 2: The ecological processes and the biodiversity dependent upon terrestrial, fresh water and marine environments be maintained and where necessary, restored.	Threat management had produced some restoration of freshwater flows, and may have had the same result for marine environments, although the lack of data prevents a conclusive answer.
Goal 3: The present diversity of species and ecological communities and their viability be maintained or improved across each bioregion.	Due to the lack of systematic monitoring of flora and fauna, it is difficult to assess the achievement of this goal. However, as there is a decline in the extent and quality of native vegetation, it is assumed that there would be a similar decline in the diversity of species and ecological communities.
Goal 4: No further preventable decline in the viability of threatened species and in the extent and quality of threatened ecological communities.	As there was a decline in the viability of threatened species and net loss of native vegetation, it is likely there has also been a decline of Victoria's rare species. Data is not available to assess the extent of the decline.
Goal 5: An increase in the viability of threatened species and in the extent and quality of threatened ecological communities.	There is high-quality information available to demonstrate increased viability of some species across part of their range, but not state-wide. Some declines are evident.

Source: Victorian Auditor-General's Office, using information provided by DSE.

The department is preparing a revised framework for the future management of flora and fauna, including the new Biodiversity Strategy. The work completed to date is strategically focused and comprehensive and relevant stakeholders have been engaged.

5.2.2 Action statements

The Act requires an 'action statement' must be prepared as soon as possible after a species, community or potentially threatening process has been listed.

Action statements:

- provide background information about the species, including its description, distribution, habitat, life history, the reasons for its decline and the threats which affect it
- set out what needs and has been done to conserve and manage a species, community or potentially threatening process
- provide measurable outcomes and timelines.

In some cases, the department prepares a single action statement for a group of species or communities. This allows common issues to be addressed and broader programs of evaluated actions to be developed.

Unlike the Commonwealth system, the proposed actions in the action statements are not always costed. As a result, the department cannot accurately forecast the cost or resources required to deliver on proposed future actions.

The action statements typically apply for three to five years, after which time the department planned for them to be reviewed and updated.

Timeframes for preparing action statements

Only 278 (43 per cent) of listed items have had an action statement prepared and approved. An average of only 15 action statements per year were developed and approved between 1991 and 2008. Figure 5B shows the number of action statements prepared by the department on a yearly basis from 1991 to 2008. The sudden decline around 2004–2006 reflects a hiatus in approvals while draft action statements were incorporated into the department's actions for biodiversity conservation (ABC) system.

**Figure 5B**
Distribution of action statements
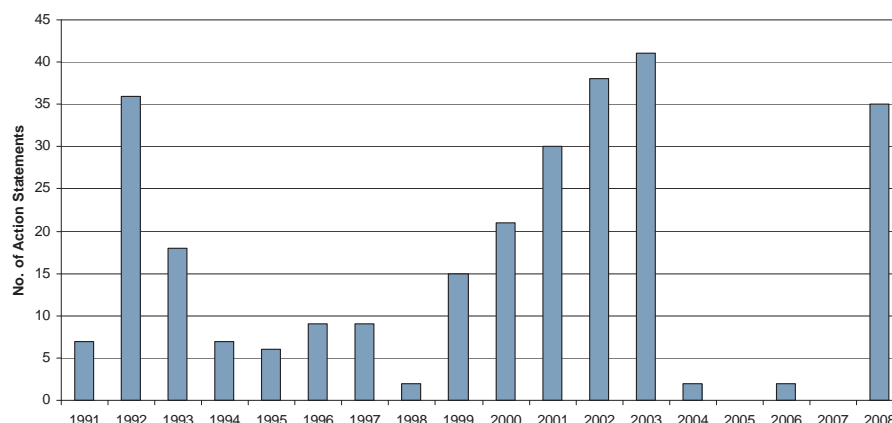
Source: Victorian Auditor-General's Office, using data provided by DSE.

The Act and associated regulations do not mandate specific timeframes for preparing action statements. On average it has taken 4.1 years from listing to the completion of an action statement, with timeframes for individual statements ranging from less than one year to 17 years.

It is clear from Figure 5C that the rate of listing items has significantly outpaced the rate of action statement development. At the current rate, and assuming no additional listings beyond 2008, it would take 22 years to develop action statements for the remaining listed items.

Figure 5C
Rate of listing compared to the rate of action statement development
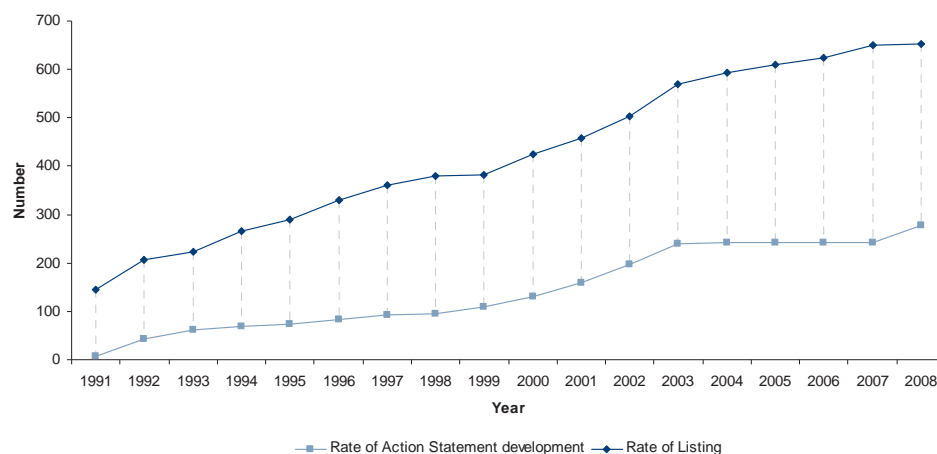
Source: Victorian Auditor-General's Office, using data provided by DSE.

Before 2005–06 there had been no criteria consistently applied to prioritise development of action statements.

In an effort to address the backlog, in 2005–06 the department developed criteria for prioritising the development of action statements. The criteria have been revised annually. The statements for the protection and recovery of the most threatened species, communities and processes are now given priority. Notwithstanding this initiative, the backlog has not reduced.

Content of action statements

The Act does not prescribe what should be included in the action statements.

For action statements to be effective, individuals and organisations are required to act to conserve the relevant native flora and fauna should understand clearly what they must do, where it is to be done and which species or community will benefit from the action. To this end action statements should:

• identify the species of flora and fauna to be protected, or the threatening process to be controlled

- identify the location or locations involved
- identify the other government agencies that will help facilitate the achievement of the strategies
- state the actions to be taken and who is required to undertake them
- outline mechanisms to monitor and report on compliance with the actions and the department's performance in achieving measurable objectives of the plan.

Review of the selected case studies verified that each action statement included the first four dot points listed. None of the action statements examined, however, covered how the department would monitor compliance or report on progress, nor did they contain performance measures.

Enforcement and monitoring of action statements

Listing threatened species and communities and developing action statements to protect and re-establish threatened species are of value only if the actions are implemented and their impact evaluated.

There is no legal power to compel the department or other agencies to complete the directives within action statements. Departmental staff who prepare and monitor action statements rely on the goodwill of other departmental and agency staff to undertake tasks in the action statements.

There is also no legal requirement for the department to review action statements once they have been prepared. Although the department planned to review and re-assess the effectiveness of action statements at least every five years, action statements continue 'in effect' whether or not that review is undertaken.

Only 15 of the 278 approved action statements have been reviewed and revised, and 80 have been identified for review. One third of action statements created ten or more years ago have yet to be reviewed.

Our review of case studies confirmed the general findings that the review timeframes stipulated in the action statements were often not met and a number of action statements had not been reviewed for some time. Detailed analysis of the 14 cases selected identified that:
- there was a significant time delay in the time taken to prepare the action statements, an average of 4.75 years
- only three of these actions statements had been reviewed and updated.

The department has recently started using the Action Biodiversity Conservation (ABC) system to record the results of its reviews. Where actions were completed in the cases examined, they were recorded as such. For uncompleted actions, the reason for non-compliance is entered. However, the action is then simply 'rolled-forward' in most cases to commence the following year. This continuation of a non-compliant timeframe underscores that no-one is producing, implementing or is held accountable for the action statements.

5.2.3 Flora and fauna management plans

The Act enables the departmental secretary to prepare formal plans to guide the management of threatened flora, fauna, or potentially threatening process.

The departmental secretary must give notice of the preparation of a draft management plan to any landholder of land or manager of water which is likely to be directly affected by that plan. Before plans are established there needs to be a detailed process of public consultation.

No management plans have been prepared to date.

The department has placed a higher priority on actions statements over the development of flora and fauna management plans and therefore has allocated a greater share of available resources. The department describes the flora and fauna management plans as a 'more detailed action statement' as the additional information required is minimal. As a result they are perceived to be of little additional value.

5.2.4 Public authority management agreements

The Act enables the departmental secretary to enter into an agreement with one or more public authorities involved in the conservation of native flora and fauna to manage the conservation of any species or community of flora, fauna or potentially threatening process. There is no legal requirement under the Act for the department to enter into a public authority management agreement (PAMA).

To date, the department has developed nine agreements that have been approved by the Secretary and gazetted; two agreements have been signed but not yet gazetted; and one has been prepared but not yet approved by the Secretary. One agreement is on hold. Figure 5D provides a summary of the PAMAs developed by the department.

Figure 5D
List of public authority management agreements (PAMAs)

Location	Agreement made with	Subject	Status
Gippsland —Traralgon	City of Morwell	Eucalyptus yarrensis	Completed Gazetted 24 Jun 1993
Gippsland —Yarram	Trustees of Alberton Cemetery	Plains Grassland (South Gippsland) Community	Completed Gazetted 25 Nov 1993
South West —Portland	Shire of Heywood	Caladenia hastate—Limestone Spider-orchid	Completed Gazetted 17 Mar 1994
Gippsland —Orbost	Shire of Orbost (Marlo Aerodrome)	Diuris punctata—Purple diuris	On hold
North West —Mildura	Trustees of Mildura Cemetery	Mixed eucalyptus woodland	Completed Gazetted 1 Dec 1994
Port Phillip Melbourne	Whittlesea Shire	Western Basalt Plains Grassland	Completed Gazetted 15 Jul 1995
	Trustees of Merbein Cemetery	Mixed Eucalypt Woodland Community	Completed Gazetted 17 Apr 1997
North West —Eppalock	Goulburn Murray Water (Lake Eppalock)	Delma impar—Striped Legless Lizard Basalt Plains Grassland	Completed Gazetted 13 Aug 1998
Port Phillip	Wyndham Cemetery Trust (Truganina Cemetery)	Native Grassland Community Rutidosis leptorrhynchoides —Button Wrinklewort	Completed Gazetted 6 Sep 2001
Gippsland —Dawson	Gippsland Plains Rail Trail	Central Gippsland Plains Grassland Community Forest Red Gum Grassy Woodland Community Diuris punctata —Purple Diuris	Signed 20 Aug 2003 Not gazetted
Gippsland —Sale	Wellington Shire	Central Gippsland Plains Grassland Community	Signed 22 Aug 2005 Not gazetted
South West —Portland	Glenelg Region Water Authority (Dunkeld Waste Water Treatment Plant)	Amphibromus pithogastrus —Plump Swamp Wallaby-grass	Unsigned. However, the Sewerage Authority uses the draft agreement to manage the site.
Port Phillip	Queenstown Cemetery Trust	Native vegetation of high regional significance (Grassy Dry Forest, Valley Grassy Forest and Swampy Forest)	Completed Gazetted 20 Aug 2008

Source: Department of Sustainability and Environment.

The department regards the value of PAMAs as variable. It does, however, believe that they are an effective way of encouraging participation and support of organisations in conserving native flora and fauna.

5.2.5 Critical habitat determinations

While extinction can occur naturally, human activity is the cause of the majority of species extinctions in modern times. The greatest human threat to other species is habitat loss. Accordingly, tools to protect ecologically significant areas of habitat are essential.

The Act provides the ability to protect designated areas through a critical habitat determination (CHD). However, unlike the threatened species and threatening processes, the Act does not provide for individuals to nominate critical habitat.

A CHD is used to protect the habitats of threatened species, for example, by requiring that public works programs are closely supervised and monitored to ensure that work does not compromise the protection and survival of native flora or fauna.

Only one CHD has been made. It was subsequently revoked when a land use conflict was resolved by negotiation and changes to the proposed development impacting on the critical habitat.

The department indicated that it does not use CHDs because:
- assessing critical habitats is scientifically challenging and resource intensive
- information on critical habitats is scarce
- it is difficult to set boundaries for the habitat
- there is a tendency for a CHD to escalate public conflict in regard to the use and development of land and water
- boundaries often cannot be clearly defined which means that any declared critical habitat could be subject to legal challenge by property developers or others wanting to use the land.

The department has yet to address these concerns to enable them to use and effectively apply CHDs.

5.3   Conservation and control measures

The Act provides conservation and control measures giving the department legal power to protect listed items.

5.3.1 Interim conservation orders

Interim conservation orders (ICO) are the main enforcement tool provided under the Act. These orders are legal instruments used to compel landholders and planning authorities to change their practice and behaviour to protect endangered plants and animals.

A significant part of the Act deals with interim conservation orders. These orders are used to:
- conserve, protect or manage flora, fauna, land or water within the critical habitat that is the subject of the order
- prohibit or regulate any activity or process that takes place on the land or in relation to the water or the use, management or development of the land or water within the critical habitat that is the subject of the order
- prohibit, regulate or manage any activity or process that takes place outside the critical habitat which is the subject of the order that is likely to adversely affect the critical habitat.

However, they apply only in areas that have been declared to be a 'critical habitat'. As there are no CHDs in force, no ICOs have been issued. In addition to the difficulty of listing 'critical habitats', the other major reason cited by the department for their non-use was the time it would take to prepare orders.

ICOs are an injunctive power designed to halt actions which threaten listed items that require conservation action. The department believes that their use would reveal a failure of other processes to achieve conservation. In addition, the ICO provisions allow for financial compensation to be sought and as such their use would also tend to exacerbate land use or development conflicts.

There are other statutory controls available that provide for the protection of habitat on private lands:

- The *Wildlife Act 1975*—this Act has a general requirement that 'all persons must not wilfully damage, disturb or destroy any wildlife habitat', and permits designation of 'wildlife management cooperative areas'.
- The *Planning and Environment Act 1987*—has controls in the form of overlay provisions, that cover areas considered to be environmentally significant and designed to protect native vegetation and wildlife.

The department indicated that in their view it is easier to use the compliance powers in other Acts, such as the provisions under the *Planning and Environmental Act* 1987, to enforce the protection of threatened species and communities because they provide an integrated rather than fragmented approval process.

5.3.2 Handling of protected flora and listed fish

The Act provides for the handling of protected flora and listed fish. Broadly, these provisions specify that:

- The Governor in Council may by Order published in the Government Gazette declare any flora including that which is not indigenous to Victoria, to be protected flora.
- A person must not take, trade in, keep, move or process protected flora without a licence or permit or unless authorised by Order of the Governor in Council published in the Government Gazette.
- A person must not take, trade in or keep any fish which is a member of a listed taxon or community of fauna without a licence or unless authorised by Order of the Governor in Council published in the Government Gazette.

Controls over the handling of protected flora and listed fish have been used. Permits, licences and orders are issued or made under sections 48 and 53 of the Act and a small number of prosecutions have been successfully made under section 47. The powers under section 48 are routinely used in regard to actionable activities on public land.

However, the penalties for offences under the Act have not been reviewed or updated and therefore are not an effective deterrent. For example the proceeds from taking protected flora or fish are not likely to significantly exceed a fine of $5 000.

5.4   Measuring effectiveness

5.4.1 Outcome measures

The effectiveness of the administration of the Act is ultimately measured by how many species are removed from the 'threatened' list—either because they become extinct, or because their conservation status improves.

Currently, adding a species to the list is not necessarily an indicator of failure—using the advisory list as a guide, there are clearly more threatened species than are currently listed.

There are presently no outcome measures tracked or reported by the department that relate to the conservation status of listed species.

5.4.2 Output measures

The performance measures included in budget papers and in the department's annual report relating to the administration of the Act have changed over the last ten years. There has been a reduction in the number of performance measures.

The department was setting targets for demonstrable improvement in conservation status of threatened species. From 2002–03 through to 2007–08 the only measure reported was 'new or revised action statements'. This measure was discarded by the department for 2008–09 because it related to a 'procedural protocol rather than an output' (for the Act).

However it was not replaced with any other performance measure related to the administration of the Act. There are also no other measures in the budget papers that provide direct information on the biodiversity of Victorian flora and fauna or their conservation status.

Figure 5E summarises the performance measures used by the department since 1997, with the targets and actual results for each measure.

Figure 5E
Output performance measures

Outputs measures—targets and actuals	97/ 98	98/ 99	99/ 00	00/ 01	01/ 02	02/ 03	03/ 04	04/ 05	05/ 06	06/ 07	07/ 08	08/ 09
New species listed for protection under the FFG Act	45	40	37	50	50							
Actual	**nm**	**0**	**52**	**44**	**61**							
Action statements for protected species approved (under FFG Act)	20	20	20	30	30	40						
Actual	**nm**	**16**	**20**	**35**	**40**	**39**						
Completed action statements for nationally vulnerable and endangered species	nm	75 %	20									
Actual	**nm**	**nm**	**35**									
Threatened species with demonstrable improvement	30	35	20	20	30							
Actual	**nm**	**nm**	**20**	**20**	**30**							
Agencies having agreed action plans under the FFG Strategy				10	15							
Actual				**10**	**15**							
Local Government authorities and CMAs assisted with information on the FFG Strategy and incorporating actions into the planning schemes				20	10							
Actual				**20**	**15**							
Major threats to biodiversity with management strategy and effectiveness monitoring program						2	2	2	2			
Actual						**2**	**2**	**2**	**2**			
Threatened species, communities or potentially threatening processes with new or revised FFG action statements circulated to stakeholders for formal comment prior to approval								40	50	25	50	
Actual								**42**	**37**	**25**	**50**	

Note: nm = 'new measure'.
Source: Victorian Auditor-General's Office.

The department's 'biodiversity reporting framework'

The department is developing a broad biodiversity reporting framework in an effort to clarify the achievements of biodiversity conservation activities. Their aim is to ensure that appropriate feedback on outcomes continually improves the design and targeting of programs. The reporting systems being developed intend to:

- readily support refinement of priorities and strategic approaches through continuous improvement
- allow quantitative review of progress towards program goals and measurable outcomes
- identify expected performance with respect to natural resource managers that share responsibility for achieving overall conservation targets for particular species and communities
- allow hierarchical reporting of statewide, bioregion-based or business-based trends
- translate readily to national overviews
- successfully blend scientific rigour and affordability
- promote broad understanding and the use of common knowledge and language
- lead in the direction of adequate understanding of informal stakeholder relationships.

While the ultimate focus is on biodiversity outcomes, each area of activity plays a key role in an integrated program and is worthy of reporting on as part of an overall performance assessment.

5.5   Conclusions

The requirement for the department to prepare a Flora and Fauna Guarantee Strategy under the Act was met with the development of the *Victorian Biodiversity Strategy* in 1997. The strategy:

- provided a conceptual framework for understanding and planning for biodiversity
- promoted the creation of tools to influence private land holders to manage biodiversity
- influenced other agencies to include biodiversity requirements in their planning strategies.

However, the strategy did not provide enough guidance on how the issues raised within it were to be addressed. There were no measurable objectives. The strategy had goals, but not clear actions, timeframes and responsibilities. Without clear targets and a means of assessing progress it was not possible to assess the impact of actions undertaken.

There are significant delays in the development of action statements. The time delays are of concern because these statements are the only tools under the Act being used to give practical effect to protecting and conserving a species listed as threatened.

There is no systematic assessment of approved action statements to determine their effectiveness. Consequently the department is not able to determine whether initiatives included in action statements are working. The lack of effective monitoring and evaluation of actions means that initiatives in action statements are unlikely to be updated to take into account environmental changes or new information available on the listed item.

In the past, monitoring of implementation and completion of actions outlined in action statements was not undertaken within the timeframes set in the statements, and was of variable quality. Recently, the ABC system has been used to monitor action statement compliance and the monitoring process has improved considerably.

Other conservation tools available under the Act are not being utilised. This is largely attributed to the complexity and difficulty of administering these provisions. The department has relied on provisions in other environmental legislations, strategies, policies and plans in preference to those available under the Act to conserve and protect flora and fauna.

There are no performance measures to assist in determining whether the objectives of the Act are being achieved. The department plans to implement a broad biodiversity reporting framework. This will help clarify the achievements of biodiversity conservation activities and ensure that appropriate feedback on outcomes continually improves the design and targeting of programs.

Recommendation

5.1 The department should:

- assess the resources it applies to developing, monitoring and reviewing action statements and establish a prioritised action plan to address the backlog of listed items with no action statements

- include in new and revised action statements the processes by which it will monitor progress and evaluate the effectiveness of each initiative within the action statement

- review the efficacy of conservation and protection tools available under the Act

- assess whether the listing process is the most effective and efficient means of protecting species and communities

- develop a suite of consistent output efficiency and outcome effectiveness measures to monitor and assess its conservation efforts.

Appendix A.
Case studies

Figure A1
List of the case studies used for detailed analysis

Case	Type	Main source of decline
Threatened species		
Helmeted Honeyeater	Endemic forest bird	Habitat loss, genetic decline
Southern Right Whale	Marine mammal	Previous whaling
Wandering Albatross	Marine bird	Competition, pollution, incidental catch, disease
Baw Baw Frog	Endemic alpine amphibian	Habitat loss, Chytrid fungus, climate change
Eltham Copper Butterfly	Endemic forest insect	Habitat loss or degradation, loss of important features, genetic decline, weed invasion
Southern Bluefin Tuna	Marine fish	Fishing
Bellarine Yellow Gum	Endemic grassland tree	Habitat loss, disease hybridisation, lack of recruitment
Sunshine Diuris	Grassland orchid	Lack of recruitment, genetic decline, habitat loss, predators, weeds
Threatened communities		
Northern Plains Grassland	Grassland community	Land clearing, change to structure
Silurian Limestone Pomaderris Shrubland	Endemic forest community	Grazing, fire, weeds
Potentially threatening processes		
Predation on wildlife by the Red Fox	Introduced predator	Predation on CWR species. Competition with native predators
Introduction of exotic organisms into marine waters	Marine	Disease, economic cost, competition, reduced water quality, predation
Loss of 'Hollow Bearing Trees' from native forests	Terrestrial	Loss of animal habitat from fire, clearing, forestry
Alteration to natural flow regimes of rivers and streams	Freshwater	Changes to flood regimes, water courses, catchment modifications, and impacts on ecosystems and species

Source: Department of Sustainability and Environment.

Appendix B.
Outline of the 'listing' process

Figure B1
The listing process established by the Department of Sustainability and Environment timeframe

Process step	Elapsed time (weeks)
Item nominated for listing	Received
Scientific Advisory Committee (SAC) makes a preliminary recommendation and notifies minister in writing	3
Preliminary recommendation advertised for public comment (at least 30 days)	15
Any submissions considered by SAC	
SAC makes a final recommendation (within 3 years of receiving a nomination) and notifies minister in writing	21
Final recommendations advertised	31
Victorian Catchment Management Council (VCMC) notified of final recommendations	
Normal departmental briefing note to minister prepared includes following details: ● dates of SAC Final Recommendations and letters to minister ● information on each item for listing ● comments from VCMC ● all relevant documentation for minister's signature ● prepare briefing note to minister	35
Briefing note reaches minister's office Minister's decision	39
Section (16) After considering the committee's (SAC) recommendation and any comments of the LPC (now VCMC) the Minister must within 30 days decide whether or not to recommend to the Governor in Council that the taxon or community of flora or fauna or potentially threatening process be added to or repealed from Schedule 2 or 3.	
Minister's decision advertised	43
Listing process completed by Governor-in-Council (GIC). Item is now listed.	43

Source: Victorian Auditor-General's Office, using information provided by the Department of Sustainability and Environment.

Auditor-General's reports

Reports tabled during 2008–09

Report title	Date tabled
Managing Complaints Against Ticket Inspectors (2008–09:1)	July 2008
Records Management Checklist: A Tool to Improve Records Management (2008–09:2)	July 2008
Investing Smarter in Public Sector ICT: Turning Principles into Practice (2008–09:3)	July 2008
Private Practice Arrangements in Health Services (2008–09:4)	October 2008
Working with Children Check (2008–09:5)	October 2008
CASES21 (2008–09:6)	October 2008
School Buildings: Planning, Maintenance and Renewal (2008–09:7)	November 2008
Managing Acute Patient Flows (2008–09:8)	November 2008
Biosecurity Incidents: Planning and Risk Management for Livestock Diseases (2008–09:9)	November 2008
Enforcement of Planning Permits (2008-09:10)	November 2008
Auditor-General's Report on the Annual Financial Report of the State of Victoria, 2007–08 (2008–09:11)	November 2008
Local Government: Results of the 2007–08 Audits (2008–09:12)	November 2008
Management of the Multi-Purpose Taxi Program (2008–09:13)	December 2008
Results of Audits for Entities with 30 June 2008 Balance Dates (2008–09:14)	December 2008
Preparedness to Respond to Terrorism Incidents: Essential services and critical infrastructure (2008–09:15)	January 2009
Literacy and Numeracy Achievement (2008–09:16)	January 2009

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