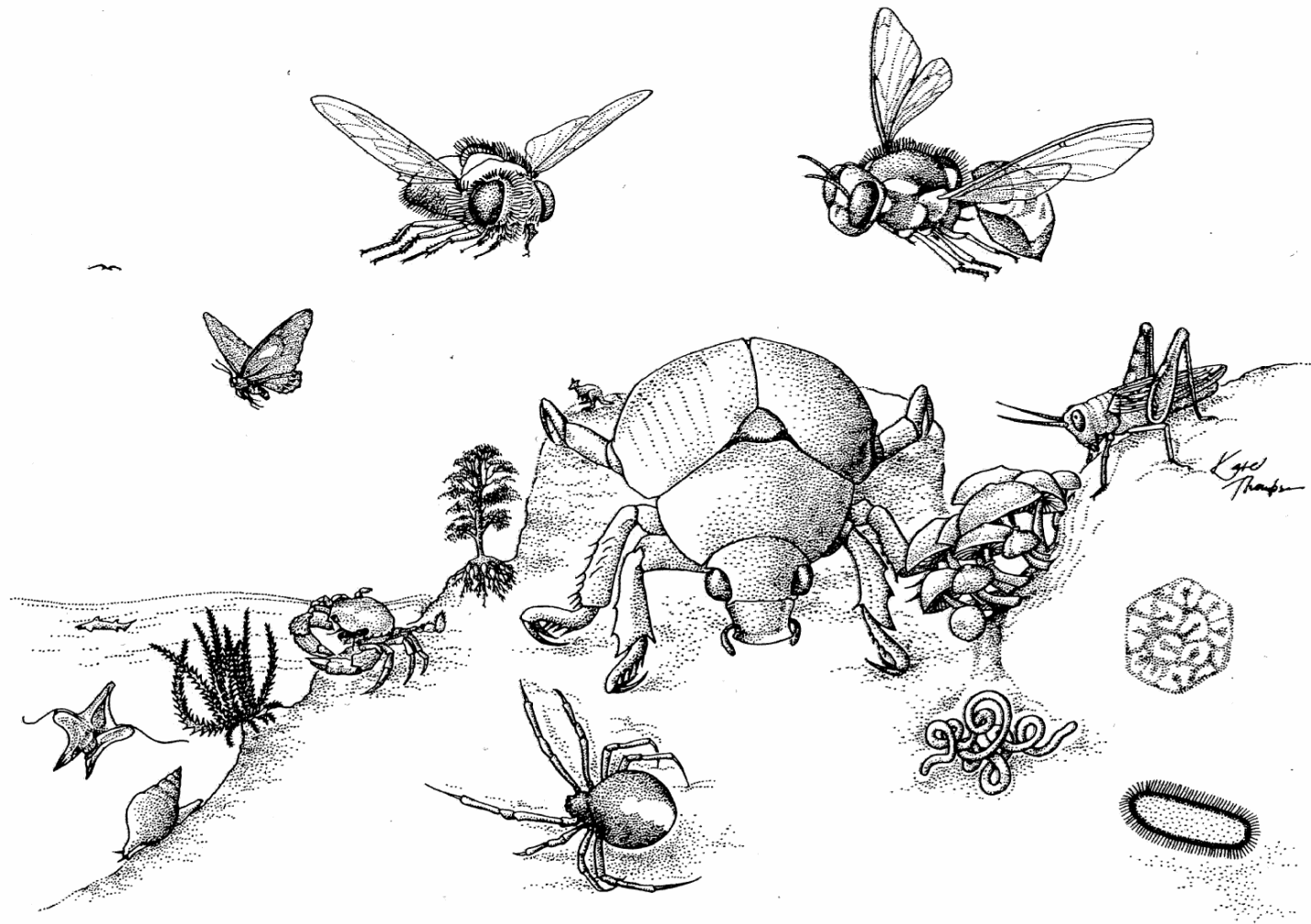


Options for reform.

**Some
suggestions for
reinvigorating
the FFG Act**

Brendan Sydes

Environment Defenders Office



The Flora and Fauna Guarantee Act 1988 on paper

**Species,
communities**

**Threatening
processes**

Strategy

**Action
Statements**

**Critical habitat
determinations**

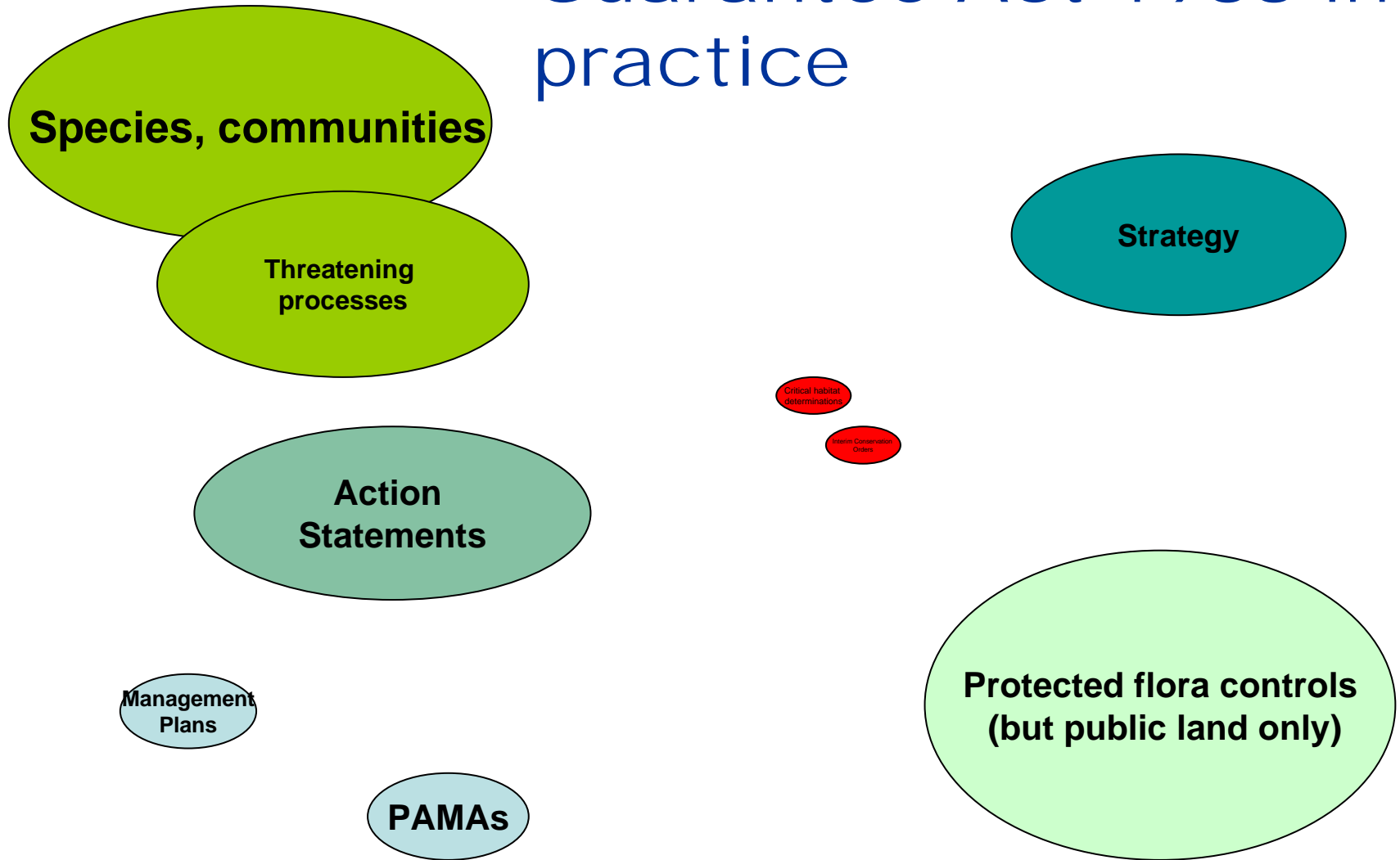
**Interim Conservation
Orders**

**Management
Plans**

**Public Authority
Management Agreements**

**Protected
flora/fish controls**

The Flora and Fauna Guarantee Act 1988 in practice



Reviewing the Act - some housekeeping

- Act was ahead of its time when first introduced but is now becoming dated
- Some basic reforms:
 - Introduce sustainability principles including precautionary principle
 - Define biodiversity

Listing – the current position

“A taxon or community of flora or fauna is eligible to be listed if it is in a demonstrable state of decline which is likely to result in extinction or if it is significantly prone to future threats which are likely to result in extinction.”

- Flora, fauna, including subspecies and communities can be listed
- But single category – “threatened”

Refining listing categories and criteria

- Adopt system based on IUCN classifications:
 - Extinct/presumed extinct/extinct in the wild
 - Critically endangered
 - Endangered
 - Vulnerable
 - Etc
- Easy to do - DSE Advisory list for Flora and for Vertebrates already based on this system, but no legal force

Advantages of new listing criteria

- Categorisation more meaningful in suggesting priorities for action
- Consistent with national and international practice
- Change could provide basis for:
 - immediate adoption of current advisory lists
 - automatic addition of nationally listed species found in Victoria to Victorian list

Habitat protection? - listed communities and EVCs

- Victoria has a well developed and comprehensive classification system for Ecological Vegetation Classes, however there is no statutory basis for this scheme
- Conservation status has been attributed to these EVCs on a bioregional basis
- Can we immediately add endangered and vulnerable EVCs as listed communities?

Action Statements

What the Act says:

“The Secretary must prepare an action statement for any listed taxon or community of flora or fauna or potentially threatening process as soon as possible after that taxon, community or process is listed.”

Action Statements - the reality

- Presently aiming to prepare 50 per year, at present rate will never prepare Action Statements for all listed taxons/communities and processes, let alone keep them up to date
- Greater number of listed items will make the task even more difficult

Action Statements – aligning the Act with reality

- Reserve Action Statements for high priority items not adequately covered under other strategies, plans etc
- At the time of listing, decide on whether an Action Statement is required and nominate time frame for its preparation
- Get with the internet age - emphasise use of ABC database – could facilitate adaptive management and accountability – but must be publicly accessible
- Implementation = resources, resources, resources

Critical habitat – what the Act says

“The Secretary may determine that the whole or any part or parts of the habitat of any taxon or community of flora or fauna is critical to the survival of that taxon or community”

But – never used!

Critical habitat – possible reforms

- Let anyone nominate an area as critical habitat
- As with listing, Scientific Advisory Committee makes recommendations to Minister on the basis of scientific criteria
- Minister decides whether to make a declaration, perhaps taking into account social and economic factors as well as SAC recommendations if this is seen as desirable

Interim Conservation Orders

- Powerful option of last resort – can override all other approvals
- Not used
- Review entitlement to compensation:
 - move toward payment for ecosystem services
 - should perhaps be only available where what is required goes beyond some standard of reasonableness or a “duty of care”

Listed species – assessing threats from development

- Clear rules and early assessment essential
- Environment Effects Act 1978 will only be applied to very large proposals, even then a matter of discretion
- Habitat threatened by development might be protected to a degree through native vegetation retention controls under Planning Schemes, but . . .

Threatened species impact assessment - reforms

- Require impact assessment where development proposals may have a “significant impact” on a listed species or community
- Opportunity to demand appropriate survey effort and investigation of impacts, alternatives, and options for mitigation
- Essential to put other processes on hold while impact assessment occurs
- Third party enforcement keeps system honest

The importance of a strategic framework

- Listing and processes flowing from listing valuable but inadequate of themselves
- Need ability to focus on ecological processes, restoration, big threats like climate change
- Need long term strategies at appropriate ecological scales
- Key issue is how to translate strategies into action on the ground

Strategic planning and sustainability – some insights from reforms to water law

- Eg - Sustainable Water Strategies under the Water Act
- Key features:
 - Adaptive Management – 50 year planning horizon, but 10 year review mandated by legislation
 - Consultative process
 - Independent expert oversight of the process
 - Strategy must include implementation plans and timeframes
- Accountability mechanisms???

Conclusion – its up to all of us

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