

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XFHR-5

Name

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State or Territory

New South Wales

Areas of Interest

Threatened species; International obligations; Indigenous Australians; Matters of National Environmental Significance; Great Barrier Reef; Climate change; Compliance and enforcement; Decision making; Biodiversity; Conservation; Water;

Attachment provided

No

Do you give permission for your submission to be published?

Yes - with my name and/or organisation (if included)

SUBMISSION RESPONSES

QUESTION 1: Some have argued that past changes to the EPBC Act to add new matters of national environmental significance did not go far enough. Others have argued it has extended the regulatory reach of the Commonwealth too far. What do you think?

The EPBC requires extension to allow for current thinking and knowledge. Our knowledge of the overall environment has expanded enormously in the past decade and social understanding and involvement has grown similarly. Commonwealth reach is important to overcome provincial bias on the State level.

QUESTION 2: How could the principle of Ecologically Sustainable Development (ESD) be better reflected in the EPBC Act? For example, could the consideration of environmental, social and economic factors, which are core components of ESD, be achieved through greater inclusion of cost benefit analysis in decision making?

The need for full and transparent cost benefit analysis is wholly necessary. This should be undertaken autonomously with free access to as wide a spread of knowledge sources as possible. But initially we need a properly informed understanding of ESD principles. We have a welter of Institutional resources to be tapped for this purpose.

QUESTION 3: Should the objects of the EPBC Act be more specific?

Probably not. More specificity usually leads to more legalese.

QUESTION 4: Should the matters of national environmental significance within the EPBC Act be changed? How?

Yes by including the full consideration of future costs arising through non-action now. This is a highly pertinent factor in overall thinking. Our present three year Gov't. term of office makes advances in this area of thinking realistically difficult and the term should be extended to a five year period. We are dealing here with potentially far reaching effects on our very existence, globally. History points again and again to massive social failure and negative consequences should we underestimate the effect our current policies and applications have on our environment. The science and research is already in. The writing is on the wall and cannot be ignored.

QUESTION 5: Which elements of the EPBC Act should be priorities for reform? For example, should future reforms focus on assessment and approval processes or on biodiversity conservation? Should the Act have proactive mechanisms to enable landholders to protect matters of national environmental significance and biodiversity, removing the need for regulation in the right circumstances?

Yes, both the processes and the biodiversity conservation. Yes, proactive mechanisms to enable landholders appears to be a logical way to speed up processes.

QUESTION 6: What high level concerns should the review focus on? For example, should there be greater focus on better guidance on the EPBC Act, including clear environmental standards? How effective has the EPBC Act been in achieving its statutory objectives to protect the environment and promote ecologically sustainable development and biodiversity conservation? What have been the economic costs associated with the operation and administration of the EPBC Act?

The EPBC seems to have suffered from being out of date quite quickly, plus a irresponsibility on the part of Gov't in being more interested in finding ways around the ACT rather than working in tandem with the Act's objectives.

High levels of concern:-

1. The EPBC requires a full set of very sharp teeth to enable proper compliance both publicly and Governmentally. Accountability with personal penalty ramifications will spur compliance with this essential legislation.
- 2 The EPBC needs to be elevated to a level where it commands priority status over other Acts of both Federal and State Parliaments. This is a Nation wide project to ensure our continued safe existence on this planet. Indeed it is also of global importance and should therefore include with much improved certainty a compliance with, not just a commitment to, International responsibilities.
- 3 The subject matter of the EPBC is so important that we should seriously consider the establishment of an Institution on the same lines as the Reserve Bank of Australia. The whole matter should be removed from the political arena to allow informed action of an autonomous nature. This will overcome the negatives of political football, opposing Federal/State issues, all the foreseeable delays which cannot be countenanced and the restrictions which will come through overriding budgetary "necessities".

QUESTION 7: What additional future trends or supporting evidence should be drawn on to inform the review?

- 1 A lot more attention to Restoration. There is an abundance of applied knowledge currently available, with many farmers doing their bit in restorative works. Some applications go back decades and there is activity in other countries too, which could be accessed.
- 2 Increased involvement of Indigenous people on an applied field basis. We have not properly utilised the knowledge of a culture which existed happily with the extremes of Australian conditions for millennia. There must surely be room for this science to work alongside and hand in hand with Western thinking. (As an aside, this increased involvement could be coupled with Tourism. Tourists working alongside Indigenous people in the "field" may be an attractive proposition).
- 3 A proper acceptance of Climate Change science and an application of the intrinsic requirements that flow from this knowledge. A head in the sand approach will be catastrophic.
- 4 The setting up of an autonomous body will overcome the need for legislative updates as the Institution will automatically update its objectives and applications on a regular basis.

QUESTION 8: Should the EPBC Act regulate environmental and heritage outcomes instead of managing prescriptive processes?

See recommendations above.

QUESTION 9: Should the EPBC Act position the Commonwealth to take a stronger role in delivering environmental and heritage outcomes in our federated system? Who should articulate outcomes? Who should provide oversight of the outcomes? How do we know if outcomes are being achieved?

Failing the setting up of an autonomous body (see above), the Commonwealth must step up their involvement, if only to overcome the State bias that is understandably a fact but which is inappropriate where application of the EPBC must involve cross border factors. National interests should be superior to State interests. However, Federal involvement may lead to insufficient funding and political interference, so once again, an autonomous body would be the answer.

Periodic fully transparent publication of all activity with supporting documentation. This should be made available to the media, all stakeholders and the Public. Feedback to be a matter of process.

A greater role of the judiciary with clear limitations to court applications and a new separate Judicial structure devoted specifically and solely to EPBC matters. Inbuilt and much tighter time limits through to Court decisions and to the presentation of evidential argument.

QUESTION 10: Should there be a greater role for national environmental standards in achieving the outcomes the EPBC Act seeks to achieve? In our federated system should they be prescribed through:

- **Non-binding policy and strategies?**
- **Expansion of targeted standards, similar to the approach to site contamination under the National Environment Protection Council, or water quality in the Great Barrier Reef catchments?**
- **The development of broad environment standards with the Commonwealth taking a monitoring and assurance role? Does the information exist to do this?**

Establish clear standards and make them binding. There must surely be enough information to do this by now. Commonwealth monitoring and assurance through a Dept. with teeth is essential.

QUESTION 11: How can environmental protection and environmental restoration be best achieved together?

See above.

QUESTION 12: Are heritage management plans and associated incentives sensible mechanisms to improve? How can the EPBC Act adequately represent Indigenous culturally important places? Should protection and management be place-based instead of values based?

Perhaps this area should be outside the EPBC altogether and be the subject of separate legislation. This would allow for place-based thinking and a proper consideration of Indigenous cultural importance.

QUESTION 13: Should the EPBC Act require the use of strategic assessments to replace case-by-case assessments? Who should lead or participate in strategic assessments?

No comment.

QUESTION 14: Should the matters of national significance be refined to remove duplication of responsibilities between different levels of government? Should states be delegated to deliver EPBC Act outcomes subject to national standards?

Yes to both. So long as there is attendant criteria dealing with timeline parameters, accountability and transparency of outcomes.

QUESTION 15: Should low-risk projects receive automatic approval or be exempt in some way?

- How could data help support this approach?
- Should a national environmental database be developed?
- Should all data from environmental impact assessments be made publicly available?

Public availability should allow for low-risk projects to be auto approved. Applicants would need to file details of proposal and application. Some form of random check and monitoring process at regulatory authority level.

QUESTION 16: Should the Commonwealth's regulatory role under the EPBC Act focus on habitat management at a landscape-scale rather than species-specific protections?

Looks like both to me. Perhaps Commonwealth can be responsible for overall monitoring, reporting and follow up, with the States handling the applications and processing. This to include strict coverage of post Mining land restoration commitments. We should make it mandatory that Mining licensees deposit the agreed restoration budget cost into a Bank account under Commonwealth/State control BEFORE mining commences .

QUESTION 17: Should the EPBC Act be amended to enable broader accreditation of state and territory, local and other processes?

No comment.

QUESTION 18: Are there adequate incentives to give the community confidence in self-regulation?

The right objectives and related requirements should be enough incentive since, in the long run they should result in better outcomes.

QUESTION 19: How should the EPBC Act support the engagement of Indigenous Australians in environment and heritage management?

- **How can we best engage with Indigenous Australians to best understand their needs and potential contributions?**
- **What mechanism should be added to the Act to support the role of Indigenous Australians?**

Engage Indigenous Australians at the practical levels of devising the original programs and then as part of the teams applying the supervision and guidance to farmers in the field.

Perhaps indigenous people could be part of the CSIRO team and structure as well as similar Institutions. Farming, forestry, coastal marine ecology all come to mind.

QUESTION 20: How should community involvement in decision-making under the EPBC Act be improved? For example, should community representation in environmental advisory and decision making bodies be increased?

In principle but role players should have some level of related knowledge.

QUESTION 21: What is the priority for reform to governance arrangements? The decision-making structures or the transparency of decisions? Should the decision makers under the EPBC Act be supported by different governance arrangements?

No comment on the structure but transparency absolutely. To avoid delay in the processes there should be tough deadlines for the presentation of input to each application and/or regulation. This to apply to both Gov't. departments, applicants and third parties wishing to challenge.

QUESTION 22: What innovative approaches could the review consider that could efficiently and effectively deliver the intended outcomes of the EPBC Act? What safeguards would be needed?

- 1 An autonomous body as recommended above with clearly defined authority and with "teeth" enough to effect compliance uncompromisingly.
- 2 A new department within CSIRO to study, advise on and support through R&D the Restorative aspect of farming.
- 3 Grants and /or subsidies to support restorative farming practices.

QUESTION 23: Should the Commonwealth establish new environmental markets? Should the Commonwealth implement a trust fund for environmental outcomes?

No comment.

QUESTION 24: What do you see are the key opportunities to improve the current system of environmental offsetting under the EPBC Act?

I don't think offsetting is a good thing. It is too easy to come up with offsetting features. Rather we should be applying required regulations along with supporting ecologically sustainable practices.

QUESTION 25: How could private sector and philanthropic investment in the environment be best supported by the EPBC Act?

- **Could public sector financing be used to increase these investments?**
- **What are the benefits, costs or risk with the Commonwealth developing a public investment vehicle to coordinate EPBC Act offset funds?**

Utilisation of our Institutions such as CSIRO and the Universities should include a pathway to marketing of Research outcomes with Commonwealth taking a percentage investment holding in each corporation that ensues. This should include trademark/patent protection worldwide. CSIRO needs a substantial expansion to handle this and allow it to work in with the Unis.. Commonwealth financial support of Uni. R&D departments is essential. In fact a total overhaul of Federal budgeting is necessary to create funds on a large scale for the EPBC.

QUESTION 26: Do you have suggested improvements to the above principles? How should they be applied during the review and in future reform?

Since the Australian environment is currently not up to scratch we need to enlarge the Principle of "Effective Protection"... to include, development and restoration.

QUESTION 27: Is the EPBC Act delivering what was intended in an efficient and effective manner?

Obviously not. Not enough teeth and too much politicisation.

QUESTION 28: How well is the EPBC Act being administered?

Not well. Promote Uni. courses to bring on experts; enlarge departments; establish networked fast transparency; speed up application and project approvals and create a devoted Judicial structure to speedily finalise opposing arguments.

QUESTION 29: Is the EPBC Act sufficient to address future challenges? Why?

With loveit can !!

QUESTION 30: What are the priority areas for reform?

See above.

QUESTION 31: What changes are needed to the EPBC Act? Why?

See above

QUESTION 32: Is there anything else of importance to you that you would like the review to consider?

I am not an expert in this area as, I expect has become obvious. The very fact of a piece of legislation of 1000 pages and 400 of support regulation tells anyone with common sense that it is going to be inefficient. Streamlining and speeding up processing are necessary. We don't have much time left to make ourselves integrated happily with our environment and to consequently survive in an acceptable lifestyle manner. We are already behind the eight ball and need a thoughtful way around the blockage we have built by distancing ourselves from the Planet.