

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XZS7-9

Name

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Organisation

State or Territory

Queensland

Areas of interest

Threatened species; Matters of National Environmental Significance; Environmental Impact Assessments; Great Barrier Reef; Cumulative impacts; Climate change; Compliance and enforcement; Decision making; ; Biodiversity; Conservation; Commonwealth national parks; Water

Attachment provided?

Not Answered

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?

Environmental outcomes have continued to decline in Australia despite the EPBC Act. The Act did not go far enough in identifying areas of national significance (e.g. climate change, bushfire risk mitigation etc).

ALL projects that will be referred to the EPBC Act are Engineering Projects of some form. Many surveys of Engineers Australia consistently show that Engineers want to be more sustainable. The problem is that by the time they are involved the project is decided, with very little scope to improve environmental outcomes. Engineers Australia code of ethics states "aim to deliver outcomes that do not compromise the ability of future life to enjoy the same or better environment, health, wellbeing and safety as currently enjoyed"

Clearly when Australia has the worst mammal extinction in the world (According to the EPBC Act list of threatened fauna 54 mammals, birds, frogs and other animals are extinct, and one fish is extinct in the wild) we need to be doing more and many projects are not consistent with the EA Code of Ethics. We need a strong framework to deliver sustainable outcomes that does not pass the buck onto engineer's etc. i.e. shared responsibility that fits with our sustainability principles and code of ethics.

We also need a proactive response to arrest the decline of environment this requires a 'systems view' and ingenuity. Engineers are central to both and given the opportunity (sufficient regulation) could come up with solutions that deliver the relevant outcome without compromising environmental outcomes.

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?

ESD projects (approvals and evaluations) should be outcome-driven. Evaluation should be based on both quantitative and qualitative criteria (e.g. water quality, CO2 emissions, fish populations etc). it would not be good to have economic and social matters taken into consideration in the act. If it was, a proponent could argue that the economic benefits are so large they compensate for the environmental impact. The act should be focused on the environment. There are other processes that deal with social and economic benefits.

ESD principles do not talk to the role of innovation in enabling more efficient economic and environmental outcomes. building capability and opportunities to design novel solutions that meet the ESD principles before they trigger EPBC review would be a positive step. The application of ingenuity is not adequately captured by principle ie. Improved valuation, pricing and incentive mechanisms should be promoted. Innovation is not a market mechanism question – it is a governance question that requires engineering competency early in the decision making process.

Cost benefit analysis is not appropriate for ESD. We don't know the cost of species loss, habitat loss, fire regime increase etc.

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

Yes, the objects should capture those environmental objectives most important to Australians and deemed most important by ecological/environmental experts. These include:

- Improve species conservation (stop extinctions and start recovery) – provides a tool for listing critical habitat, more than ½ the species currently endangered are because of loss of habitat). the USA if you list a species must also identify the habitat that needs to be preserved. Can't off-set need to protect. There is currently a perverse incentive for them to become extinct as if they become extinct we no longer need to preserve their habitat and there are therefore no implications for decision makers.
- Think bigger than species – In conserving nature we need to think bigger than species.
- ☐ New Matters of National Environment significance (MNES) should include ecosystems of National Importance (locally important not just international);
- ☐ I needs to include significant land clearing activities and significant GHG emissions. Land Clearing in QLD (about 2 yrs ago) created emissions sufficient to offset the \$2.4B spent on carbon mitigation by the federal government that year. I also needs to take into account future conservation requirements.

☐ Better bioregional planning – At the moment it is death by 1000 cuts. Small projects combined are having a significant impact but don't trigger the act. We need to map key issues and map corridors, bioregions, etc so cumulative impacts can be addressed up front. Like a planning scheme for biodiversity.

- National Environmental Accounts – These were recommended in the Hawke Review in 2009

☐ We need to monitor and report on natural assets by bioregion. This provides a baseline and internalises the true value of the environment.

- Protect our protected places – We need laws to actually protect our protected areas. This needs to be legislate Nationally requiring states to apply for an approval to develop that land.

- Centre first nations people in environmental decision making – There is a UN declaration which says any action that may have an impact on culture or land requires their preform consent. At the moment there are no consent requirements at all.

- Guaranteed Independent and Transparent decision making – Remove Political influence on decisions. A new act with a National Environment Protection Authority to address the issue of independent decision making.

EPBC Act objects are focused on 'conservation', the above dot points outline the more proactive solutions that could be implemented to ensure development activities that are considered under the Act are 'fit for purpose'. ie. It means showing that proposed developments have been designed from the beginning to maximise ESD outcomes. Engineers have lots of experience in this space, but without Clients prescribing the need they can't apply it. They need to be given the task to do it by the client .

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

There should be more matters of environmental significance, including climate change, bushfire risk mitigation, water resource management and water quality. It should also include national matters with a cumulative impact. Eg Loss of fish habitat may not be of national significance but decline in fishery productivity is endemic and needs to be managed.

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?

The EPBC requires comprehensive reform at a fundamental level as it is process-based. As recommended in the discussion paper, more success has been observed with outcomes-based systems.

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?

There definitely must be clear environmental standards, see answers to question 5 for some ideas on what it should focus on. Based on the loss of biodiversity in Australia, the act has been ineffective to date. The perceived economic costs (slowing or preventing project approvals) are minimal compared to the unaccounted for economic costs of loss of species, ecology, arable land, chronic human health impacts, tourism impacts etc which have not adequately protected under the current act.

The EPBC Act needs to engage with the concept of whole of system ecosystem management and prioritise this above trade-off assessments.

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

Refer to the World Economic Forum (2020) The Global Risk Report (published 15 Jan 2020), publications by the IPCC, TFCO and other resources cited in this submission.

Climate Change Authority addresses similar drivers with a policy toolkit focus. Suggest that also use a better understanding of drivers of change/levers of influence to inform thinking about requirements for a fit for purpose EPBC Act

Also refer to the planetary boundaries and limits to growth work done by Commonwealth Scientific and Industrial Research Organization (CSIRO), Globalia, International Geosphere-Biosphere Programme (IGBP), International Human Dimensions Programme on Global Environmental Change (IHDC), Stockholm Resilience Centre and Stockholm Environment Institute (<http://anthropocene.info/index.php>) .

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

Yes. Government regulation is required for material environmental outcome improvements because no one business/stakeholder is wholly responsible for Australia's entire interconnected environment. Regulation should incorporate outcome-based criteria, not solely process-based criteria; this ensures that the desired environmental outcomes are achieved and eliminates loopholes, allowing engineers to develop sustainable solutions.

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?

Yes. Independent consultants/experts should articulate outcomes using data (both qualitative and quantitative). The data should be transparent allowing public oversight. Targets and outcomes should be determined/measured by independent experts.

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 environmental standards with the Commonwealth taking a monitoring and assurance role? Does the information exist to do this?**

Yes, environmental standards should be more prescriptive in the same way that workplace health and safety standards are prescriptive (e.g. SafeWork Code of Practice). These standards should also be aligned with global best practice with demonstrated efficacy to materially improve/restore environments (e.g. in line with the COP21 Paris Agreement 2015).

- Policy and strategies should be legally binding
- Targeted standards as per the NEPC

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

- Greater focus on restoration
- Incentives for proactive environmental protection (outcome-based)
- Independent consultant baselines and ongoing reporting/monitoring will quantify success
- Consultants need to be truly independent (paid by government, not by developers)

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?

The appropriate people to answer the question of indigenous culture are indigenous people

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?

Strategic assessment cannot hope to cover the minutiae required of many cases but can be used to blanket exclude some cases such as rejection of a coal mine on the basis of contribution to global warming which would be beneficial.

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?

This could be effective but where a recalcitrant state does not follow national standards the commonwealth should be able to over-ride states such as in Peter Garrett's decision on Traveston Crossing Dam.

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?**

How could data help support this approach? The approach is not recommended

- Should a national environmental database be developed? Yes

- Should all data from environmental impact assessments be made publically available? Yes

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?

It needs to be both

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

No, this has not worked in the past

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

Self regulation is inappropriate for something as critical as the environment required to sustain life on earth.

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 mechanisms should be added to the Act to support the role of Indigenous Australians?**

Ask Indigenous organisations

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?

- 100% transparency and disclosure of environmental investigations, outcomes, data etc

- Decisions regarding the importance of environmental matters should be made by expert environmental scientists that understand the interconnected nature of ecosystems and the materiality of environmental changes

- Public and communities in Australia should generally contribute high-level feedback as to what environmental issues they feel are important (e.g. climate change, bushfire risk management, biodiversity, water resource management)
- Most Australians want to protect and conserve natural resource and prevent pollution/degradation of the environment – that is, until there exists a personal incentive to do otherwise, then individuals and organisations tend to seek loopholes to maximise personal gain despite adverse environmental impacts. Because the benefits of Australia’s environments and ecosystems are shared by all Australians, game theory explains that government must change the incentives to offset the individual benefit of environmental exploitation. It is important for government to aggregate the environmental values and issues deemed important for all Australians and then introduce mechanisms that make it difficult for individuals and companies with incentive to contradict these values/issues unless under specific, exceptional circumstances.

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?

- Remove self-regulation of large polluters
- Governments ensure independence by paying consultants to undertake investigations rather than the current situation whereby consultants are paid by polluters/developers themselves (conflicting interest)
- Government can fund this by charging corresponding companies the consulting fees to investigate/diagnose environmental issues (e.g. large polluters responsible for adverse environmental impacts requiring ongoing monitoring/investigation)

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?

The Act must be compatible with and complementary to the Climate Change (National Framework for Adaptation and Mitigation) Bill 2020.

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

Yes, the Commonwealth government should introduce:

- Carbon tax (in an increasing fashion) to help achieve national climate change outcomes
- Emissions trading scheme to change pollution incentives
- Similar biodiversity or other credits to create incentive for maintenance of biodiversity and natural resource (i.e. water resource, forest resource, climate refugia, arable land resource etc)

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

Industry best practice and global standards already exist – Australia should not redevelop these, just use existing ones that have already had demonstrated success abroad. Concerning environmental offsetting, use guidance published by the Greenhouse Gas Protocol – a multi-stakeholder partnership between the World Resources Institute (WRI) and World Business Council for Sustainable Development (WBCSD) and other NGOs with specific focus and expertise with respect to environmental issues. Existing guidance outlines, for example, how business can use carbon removals (removal of carbon from the atmosphere) vs carbon storage in pools/reservoirs (i.e. sequestration) via both natural and technological means. Existing guidance also prescribes specific reporting methods/requirements that allow for the GHG emissions of any organisation/nation to be compared like-for-like globally (globally-harmonised system).

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 risks with the Commonwealth developing a public investment vehicle to coordinate EPBC Act offset funds?**

The Act should facilitate outcome-based incentivisation of its objects, this will encourage private enterprise to solutions to address these objects.

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

Integrated Planning - Need a clear definition of ESD

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

No, there are many projects being approved which shouldn't be and then there is a long drawn out court battle. The requirements need to be clear and easily enforced.

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

Not in its current form. Globally US\$75b (IPCC 2018) needs to be invested to overcome climate change alone. This does not include mitigation/resilience of other environmental issues important to Australians (e.g. bushfire risk mitigation, water resource management). If strong enough, the EPBC Act is an important tool to help address some of the challenges by providing a strong environmental framework that needs to be complied with.

QUESTION 30: What are the priority areas for reform? - What are the priority areas for reform?

- Climate change mitigation is essential
- Improving Bushfire risk mitigation
- Preventing poor Water resource management
- Preventing Excessive and increasing waste generation and landfilling

- Remediation of polluted environments (e.g. contaminated soil and groundwater, marine rubbish)
- Preventing Species extinction events

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

The Act must prescribe and incentivise outcomes. This is important because this eliminates loopholes and will create incentive (and penalties) aligned with the objects.