

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XG69-U

Name

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State or Territory

Victoria

Areas of Interest

The objects of the Act; Threatened species; International obligations; Indigenous Australians; Heritage; 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

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?

Not enough matters of national significance are included in the EPBC Act. The legislative power of this Act is much greater than state and local regulations. Breaching controlled actions under the EPBC Act can lead to hefty fines and criminal convictions, whereas enforcement at state and local levels is so minor that it is much easier for developers and agencies to ignore their environmental impacts and pay the fines. This is a disastrous outcome for the long-term protection of native vegetation, native fauna, but also ecosystem services such as water, soil and air quality.

I would like to see more matters included, such as old growth forests which have evolved over millennia through interactions between plants, animals, fungi, and microbes and provide irreplaceable ecosystem services. Once lost, they can never be replaced. It should be the role of the Commonwealth Government to recognise the importance of remaining areas of untouched wilderness across state borders, protect everything that hasn't already been lost, and work towards enhancing connectivity between remaining patches.

I would like to see stronger protections for Aboriginal heritage. Aboriginal people are the oldest surviving civilisation on the planet, and have lived in Australia for at least 60,000 years. Consider how much older that is than other world sites that celebrate ancient civilisations, such as the pyramids which were only built 5,000 years ago. Australia's cultural heritage sites should be revered, they are significant to all of humankind not just Australia. They should never be put at risk for mining interests, I'm thinking of the Pilbara and Kakadu as examples.

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?

Cost-benefit analysis should be a requirement of all project proposals, reporting on both the short-term and long-term environmental, social and equitable considerations. There should be emphasis on the long-term costs of lost ecosystem services (water, soil and air quality) which can never be replaced once the natural environment is completely removed.

For example, the Adani mine.

Environment:

- Irreversible destruction of native vegetation, habitat for threatened species and numerous common species, wetlands, and waterways caused by huge scale earth moving to create open cut mine.
- Water rights granted will use all surface and groundwater for mine, leaving none for surrounding land uses in a climate that will see worse droughts every year
- Potential spills from tailings dams cause further damage to surrounding environment.

Social:

- Short term 1,400 jobs will be created while infrastructure is built, but long-term there will be less than 100 ongoing jobs as the mine will be automated.
- Revoked native title rights for traditional owners that have live on and protected this land for thousands of years, elder sent bankrupt trying to fight for their rights in high court, and now they will be displaced from their land.

Economic:

- What are the short and long-term forecasts in GDP from the coal that will be mined from this area, in a world that is shifting to renewable energy and reducing it's consumption of coal for power?
- Cost of government subsidies required to establish infrastructure so that mine can export product, i.e. build train line
- What is the long-term cost of lost ecosystem services caused by destroying the environment, such as completely draining the water basin in a climate that will get drier every year?

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

Each of the objects are very good. They should be explored in greater detail. Definitions, context, triggers, requirements to avoid and minimise impacts to each object, penalties for non-compliance

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

Matters of national significance should include more species and ecosystems than just threatened species. Threatened species are only classified as this once populations are in such severe decline, it is often not recoverable. A lot of money is invested into programs to protect remaining habitat, breed new individuals in captivity to release to the wild, genetic identification of population clusters, etc. But the reasons for population decline such as clearing of habitat are still continuing. It would be a better use of resources to identify remaining natural areas across the country that support numerous species due to the ecosystem balance that provides food, nesting, shelter and water

sources, and to protect those areas from being cleared and to create biolinks that connect these areas so enable gene flow to ensure populations remain genetically viable.

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 need for regulation SHOULD NOT be removed, or there will be no accountability for impacting MNES.

The Act should have proactive mechanisms and incentives to enable private landholders to earn income from the protection of matters of environmental significance. This should be a great enough incentive that it would deter the profit that can be made from logging old growth forests, for example.

There should be reform of the offset requirements so it is easier for offsets to be made on the same site where impacts have occurred, rather than a third party site elsewhere where the animals that have lost their habitat will have no opportunity to move to. Their habitat will be lost, they will be gone.

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?

Guidelines are needed that outline the legislative context, actions that must be avoided, actions that must be managed, and penalties for non-compliance to make it more accessible and understandable for applicants.

Provide templates to make the application process easier. There is no information available for calculating, managing and reporting on offset requirements. There are no guidelines on the enforcement process.

The EPBC Act could be incorporated into planning schemes so that there are triggers that could be identified early in the application stage, and flagged in permit conditions from local government so they are impossible to avoid. Local government is often better placed to observe non-compliance too.

Create offices in numerous regions in each state so that applications and enforcement can be dealt with by regional officers of the Department of Agriculture, Water and the Environment. This would create jobs too.

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

Climate change. Some species and ecosystems won't be possible to save. Others with careful management based on scientific evidence will continue to remain viable. The ecosystem services provided by natural environments will be critical for the future of land use, food security and water security in Australia.

Consider the ongoing viability of projects that will threaten significant environmental areas, for

example coal mining. Projects that will increase our carbon emissions, have a projected declining market, and increase our risks from the impacts of climate change (due to the loss of ecosystem services) should be avoided. The EPBC Act must make this clear.

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

The Commonwealth has much greater penalties for non-compliance than state and local jurisdictions. This is very important as the deterrent of criminal convictions and very large fines can often be the only reason applicants comply with controlled actions.

Administrative improvements could be made by creating jobs for regional officers in all states to assess, monitor and enforce controlled actions.

Administrative processes could be improved by producing extensive guidelines for assessing impacts, avoiding and minimising impacts, mitigation actions, and offset requirements.

Administrative processes could be improved by incorporating some kind of trigger for an EPBC referral into the state planning schemes

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. Create jobs for regional officers in numerous regions of all states to assess, monitor and enforce controlled actions.

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?**

Yes there needs to be a greater role for national standards. There is not much information available for applicants to guide them through the process of assessing impacts and proposing controlled actions.

The Commonwealth needs to play a much greater role in monitoring, assurance, and enforcement. Create jobs in regional areas of all states.

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

Focus should be on protection, to avoid impacts of changing land use and also provide incentives for protection of areas in perpetuity.

Annual reporting guidelines and templates are needed, and active monitoring by Department staff to verify reporting.

Continue to have strong penalties. These would be applied more frequently with active monitoring.

Indigenous land management should be one of the components of an application process to consult with local traditional owners for all projects.

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?

Should be determined in consultation with all traditional owner groups for the protection of all indigenous heritage sites, whether place-based or values based

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?

Case-by-case assessments are important to ensure the environmental impacts of individual projects are accounted for

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?

It is reasonable to remove duplication and responsibilities between different levels of government. However, the Commonwealth should still monitor and enforce outcomes due to the greater penalties in the EPBC Act

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?**

No. Low risk projects should not receive automatic approval, as there will be no accountability for avoiding impacts.

A national database would improve information sharing, and potentially reduce costs if the information can be re-purposed in other applications.

Information should be publicly available, as this would improve transparency and understanding of project outcomes, and allow the public to contribute to monitoring and reporting of non-compliance issues.

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?

Matters of national significance should include more species and ecosystems than just threatened species. Threatened species are only classified as this once populations are in such severe decline, it is often not recoverable. A lot of money is invested into programs to protect remaining habitat, breed new individuals in captivity to release to the wild, genetic identification of population clusters, etc. But the reasons for population decline such as clearing of habitat are still continuing. It would be a better use of resources to identify remaining natural areas across the country that support numerous species due to the ecosystem balance that provides food, nesting, shelter and water sources, and to protect those areas from being cleared and to create biolinks that connect these areas so enable gene flow to ensure populations remain genetically viable.

I would like to see more matters included, such as old growth forests which have evolved over

millennia through interactions between plants, animals, fungi, and microbes and provide irreplaceable ecosystem services. Once lost, they can never be replaced. It should be the role of the Commonwealth Government to recognise the importance of remaining areas of untouched wilderness across state borders, protect everything that hasn't already been lost, and work towards enhancing connectivity between remaining patches.

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

It would only be appropriate to accredit states and territories to deliver assurance standards, if the strong penalties for breaching the EPBC Act were also passed onto the states. Without these penalties, there is no accountability and obligations will not be met. This is observed over and over again with very minor penalties at state and local government level not providing enough incentive to avoid impacts, especially if it is more costly to mitigate or offset actions than it is to just pay a fine.

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

No. Self-regulation will not work. Strong penalties for breaching the EPBC Act are the only way to ensure compliance with protecting MNES.

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?**

Require that all controlled actions must be developed in collaboration with local traditional owner groups.

Only local traditional owners are allowed to sign agreements that allow a change of land-use

Funding must be allocated to address actions required by traditional owner groups

Where traditional owners identify sacred and significant sites that must be avoided, these are no-go zones.

If these sites have not yet been officially registered sites, allow the opportunity to register the site prior to agreements being finalised. If this scope is not feasible, then the benefit of the doubt is given in favour of the local traditional owner group, with sites or objects (i.e. sacred trees) they have identified as historically significant are given the same protections in the project development they would be if they were registered sites.

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?

Yes

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?

Retain current structure, but need more staff in the Department available to provide advice, carry out assessment, monitoring and enforcement of controlled actions.

Create numerous regional offices in all states so that there are on-ground staff that can be involved in assessment and monitoring

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?

Ecosystem services markets and environmental accounting are essential to food security, water security, and climate stabilisation. These systems should be introduced to understand the long-term consequences of projects that impact natural resources.

Safeguards would be needed to ensure there are thresholds for allowable limits, rather than an offset system that allows destruction of the natural environment in one region that is compensated for with investment in another region. This does not provide long-term outcomes that protect the ecosystem services and environmental values where they are being lost. This creates greater fragmentation of remaining populations, and ongoing land degradation in all areas that are not protected as offset sites.

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

Yes

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

Create guidelines for the calculation and eligibility criteria of offset sites, including monitoring and reporting mechanisms. Strong penalties apply if actions not met.

Develop thresholds to indicate limits of impacts for all ecosystem services. It is not effective to allow a project to use all of the water from a catchment area, and just allow them to pay a fee to not use water from another region. What if all regions end up doing this? How are water sources protected? What about the impacts on all other landholders in the region that have all their water drained? Offsetting is a theoretical way to compensate for impacts, but does little to protect values on the ground.

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?**

Ecosystem services markets and environmental accounting could open up pathways for private landholders to earn money for protecting and managing natural assets, rather than viewing it as a resource to be removed and sold for economic gain.

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

“Effective protection of Australia’s environment: Protecting Australia’s unique environment and heritage through effective, clear and focussed protections for the benefit of current and future generations.”

Our planet is at a crossroads due to climate change, exploitation of natural resources, and increasing

population. The Environment Protection and Biodiversity Conservation Act needs to consider how we will protect the environment for future generations, and the strategic steps required to achieve those goals. Future generations should have access to healthy water, soil, and air. We need to stabilise climate change, which means protecting all our existing native vegetation and marine environments, and creating more through planting millions of trees, restoring degraded land and investing in renewable technologies and carbon capture and storage. We want land that has the capacity to grow food. We want healthy and diverse natural environments for their intrinsic beauty. And we want to collaborate with traditional owners who managed this land successfully for tens of thousands of years, in contrast to the extensive and continuous destruction wrought by our view of the land and environment as a resource to be pillaged for economic gain since settlers arrived 230 years ago.

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

Need greater focus on all natural areas, ecosystem services, and climate change mitigation. Currently most focus is on threatened species which is only one very tiny component of the natural environment

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

Need more staff in all states, rather than being focussed in Canberra. Should create roles for staff in numerous regions of all states to provide advice on applications, mitigation measures, and carry out on ground monitoring and enforcement

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

Climate change is rapidly bringing many changes such as drought, bushfires, and extreme weather events. A major action to mitigate climate change is carbon sequestration from trees. Natural environments also prevent the degradation of water, soil and air ecosystem services that will be impacted by climate change. We need to prevent clearing and degradation of all remaining natural areas, and enhance the degraded environments through planting millions of trees, land restoration and investment in renewable technologies and carbon capture and storage. This may be beyond the scope of the EPBC Act but must be considered holistically, whether through additional Acts or other mechanisms. Environmental protection has never been as important as it will be in the coming decades.

QUESTION 30: What are the priority areas for reform?

Include more matters for protection.
Include climate change impacts and mitigation.
Genuine collaboration with traditional owner groups.
Greater transparency to public of projects, controlled actions, and annual reporting.
Guidelines are needed that outline the legislative context, actions that must be avoided, actions that must be managed, and penalties for non-compliance to make it more accessible and understandable for applicants.
Provide templates to make the application process easier. There is no information available for calculating, managing and reporting on offset requirements. There are no guidelines on the enforcement process.

Department officers available in numerous regions in all states to provide advice in application process, assessment documentation, and provide on-ground monitoring and enforcement.

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

Matters of national significance should include more species and ecosystems than just threatened species. Threatened species are only classified as this once populations are in such severe decline, it is often not recoverable. A lot of money is invested into programs to protect remaining habitat, breed new individuals in captivity to release to the wild, genetic identification of population clusters, etc. But the reasons for population decline such as clearing of habitat are still continuing. It would be a better use of resources to identify remaining natural areas across the country that support numerous species due to the ecosystem balance that provides food, nesting, shelter and water sources, and to protect those areas from being cleared and to create biolinks that connect these areas so enable gene flow to ensure populations remain genetically viable.

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

Our planet is at a crossroads due to climate change, exploitation of natural resources, and increasing population. The Environment Protection and Biodiversity Conservation Act needs to consider how we will protect the environment for future generations, and the strategic steps required to achieve those goals. Future generations should have access to healthy water, soil, and air. We need to stabilise climate change, which means protecting all our existing native vegetation and marine environments, and creating more through planting millions of trees, restoring degraded land and investing in renewable technologies and carbon capture and storage. We want land that has the capacity to grow food. We want healthy and diverse natural environments for their intrinsic beauty. And we want to collaborate with traditional owners who managed this land successfully for tens of thousands of years, in contrast to the extensive and continuous destruction wrought by our view of the land and environment as a resource to be pillaged for economic gain since settlers arrived 230 years ago.