

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XQ7V-3

Name

Alec Roberts

Organisation

CLEANA S

State or Territory

New South Wales

Areas of Interest

The objects of the Act; Threatened species; Matters of National Environmental Significance; Environmental Impact Assessments; Cumulative impacts; Climate change; Compliance and enforcement; Decision making; Public participation in decision making; Biodiversity; Conservation; Commonwealth national parks; Water;

Attachment provided

Yes

Do you give permission for your submission to be published?

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

SUBMISSION RESPONSES

This submission was provided as an attachment only. The attachment is provided on the following pages of this document.

17/04/2020

Dear Professor Samuel and Independent Review Panel,

Thank you for the opportunity to provide a submission into the 2019-2020 Independent Review of the EPBC Act.

I live in the Lake Macquarie / Newcastle region in NSW. I work for the University of Newcastle, School of Environment and Life Sciences as a Project Officer and previously worked at the Tom Farrell Institute for the Environment. My current role involves conducting an environmental assessment for Norfolk Island. In a volunteer capacity, I am a committee member of several organisations including the Hunter Environmental Institute, Richmond Vale Rail Trail Inc., Newcastle Climate Change Response, Hunter Innovation and Science Hub, and the Clean Energy Association of Newcastle and Surrounds. I am also a member of the Charlestown chapter of The Wilderness Society. I am involved in what could be termed environmental outreach, informing the public on environmental information, news and activities through newsletters, conducting seminars, events and conferences. I have helped run the annual Mined Land Rehabilitation Conference and the Hunter Valley Electric Vehicle Festival over the last 4 years. On the ground I am involved with Landcare work for the Richmond Vale Rail Trail.

The EPBC Act is 20 years old and has failed to address the loss in biodiversity and extinction prevention of plants and animals or habitat destruction within Australia. The Act is complex and unwieldy and is in drastic need of reform. The Act needs to address the environmental threats that we face including climate change and habitat destruction through land clearing.

Rather than amending and modernising the Act, a new Act should be drafted with biodiversity conservation and environmental protection being the key drivers. The new Act should provide government leadership on environmental protection, include safeguards for plant and animal extinction including stopping habitat destruction of endangered species, and to increase resilience of plants and animals and their habitats to key challenges such as climate change.

The principle of Ecologically Sustainable Development is a key aspect with the Act and should be modernised and strengthened to include principles of continuous improvement and non-regression of environmental standards, goals, and policies; achieve high levels of environmental protection through best practices; and increased resilience to climate change and other pressures on the environment.

With my involvement with the Mined Land Rehabilitation Conference I have seen the effects of

cumulative approvals of mines and mine expansion in the Hunter Valley on the environment, the decreased resilience to change, the health impact on individuals living and working within the area. For example, there is a cumulative issue relating to air quality in the Upper Hunter that needs attention. Average levels of coarse particle pollution in the Hunter Valley have increased at a rate higher than the rest of NSW. Air quality in the local area has been deteriorating over time, reaching 470 air quality alerts in 2019 prior to the bushfires. The top three for PM10 particulate levels of air pollution in NSW are in the local area. This air pollution contributes to heart disease, stroke, deaths, diabetes, low birth weight for babies, restricted lung growth in children, lung cancer in non-smokers, asthma and emphysema. A planned expansion of the Glendell Mine this year in the area would exacerbate an already dire set of circumstances with respect to air quality and health issues in the local area. However, the mine expansion went ahead as cumulative impacts are not considered in planning laws. The Act needs to explicitly consider cumulative impacts of past, present and future developments and decisions. The use of strategic environmental assessments may assist in assessing cumulative impacts.

The impacts of climate change on the environment are significant and severe. The present scientific consensus is that the earth's climate is warming due to human activity (<https://climate.nasa.gov/scientific-consensus/>), and the negative impacts of increased greenhouse gas emissions are measurable globally and nationally. The government is responsible for the environment, the health and wellbeing of its citizens, and the financial security of the nation. As we see the impact of increased carbon emissions, we also find evidence of the impact on Australian native wildlife, the Australian people and the wealth of the nation as noted by the recent catastrophic bushfires and devastating drought.

To ensure the health and resilience of the Australian environment and its people in the face of such challenges, laws and processes will need to be enacted to mitigate climate change and address the impacts of climate change, extreme weather and drought. This would include sustainably managing environments affected by climate change and rebuilding and restoring ecosystems burnt by bushfires. Although climate change is the most significant environmental threat it is not mentioned anywhere in the Act. The Act should address and regulate the impacts of climate change on biodiversity.

For example, following the recent catastrophic bushfires, koala populations are at a crisis point and it is imperative that urgent action be taken to ensure the survival of this iconic species within south eastern Australia.

Climate change is predicted to affect koala habitat conditions and cause more severe weather conditions (such as the recent severe drought and catastrophic bushfires) which will impact koala survival rates. Climate change is predicted to affect koala habitat by altering the structure and chemical composition of koala food trees, changing the composition of plant communities, and

changing the range of important habitat species.

In my local area, changing sea levels as a result of climate change will impact on low lying priority habitat within the Port Stephens area and Stockton Bight, further fragmenting habitat stands.

The ability of Koalas to migrate due to the effects of climate change are impacted by the connectivity across the landscape. Particular attention is required to remove or mitigate the barriers to connectivity and to preserve and enhance existing connectivity, such as undertaken in the Hunter Valley with the Great Eastern Ranges initiative. For example, regional and local conservation planning should consider protecting existing connectivity and enhancing connectivity of koala habitat patches that are within 100m of another patch.

Climate change considerations need to be included in the Act to identify and protect habitat and corridors that will support species resilience to more extreme heat and natural disasters, even if there is no population in those areas now.

Matters of national environmental significance (triggers) are an essential part of the Act that trigger assessment processes under the Act. These triggers should be retained and expanded to include vulnerable ecological communities (alongside other threatened species and ecological communities), significant land-clearing activities, significant water resources (in addition to coal seam gas and large coal impacts), the National Reserve System, significant greenhouse gas emissions and nationally important ecosystems (key biodiversity areas and areas of high conservation value).

Any biodiversity offsetting must be based on clear scientific principles and limits and maintaining or improving ecological outcomes. The government should avoid lowest common denominator standards that rely on the market such as with the NSW system. The Act should not allow 'offsetting' critical habitat, endangered species and ecological communities. Furthermore, offset land should be of similar habitat (like-for-like), should provide an improvement for the impacted species or ecological community, must comply with the provision of no net loss of biodiversity, must be protected in perpetuity, should be consistent with any species recovery plans, cannot be substituted by the payment of money, such as into a Biodiversity Conservation Fund, and should be a last resort following efforts made to mitigate impacts.

Offset land must be an additional protection. For example, a developer cannot use existing parkland to offset koala habitat such as was proposed by Lendlease near Campbelltown in NSW last year.

From my personal experience with the Mine Rehab Conference, Mine Rehab land is unlikely to be an effective offset (in line with like-for-like habitat, no net loss of biodiversity, etc) and should be

excluded. The former NSW Office of Environment and Heritage noted that “there is no certainty that functioning ecosystems can be restored to their original value through rehabilitation” and questioned whether restoration of biodiversity on a degraded site was even possible.

Offset land must be secured prior to development / land clearing going ahead. For example, after seven years and multiple time extensions, Whitehaven’s Maules Creek mine has failed to secure over 5000 hectares of biodiversity offsets for their clearing the critically endangered box gum grassy woodland ecological community near Narrabri and is now in court. Only 5% of this iconic woodland still exists and provides habitat for the Regent Honeyeater, Superb Parrot and Squirrel Glider.

Ecosystem services underpin human existence, health and prosperity, with biodiversity central to the production of ecosystem services. In recognising the intrinsic importance of the environment to Australia, the Act needs to acknowledge the value of ecosystem services. The assessment and value of ecosystem services also needs to be included in decision making to ensure potentially hidden social costs or benefits are considered.

To ensure government accountability and effective decision making, greater public transparency is required together with effective community consultation and the right of appeal. Decisions should be informed by community engagement (including public submissions) and the reasoning behind the decisions documented and provided back to the community. Specifically, the Act should provide information on policies, policy changes, and specific assessments, decisions and actions to the public in a timely and accessible manner. It should not be necessary to undertake lengthy and expensive FOI requests to get the reasoning behind decisions. The right of appeal should extend to the courts with judicial review of government decisions such that is available in the states. Similarly interested parties should be able to seek merits review of decisions.

To facilitate reform and effectiveness of the new Act, a national ecosystem assessment should be undertaken to establish a baseline and determine indicators of success / failure. National ecosystem assessments could then be undertaken periodically to help measure, maintain, and improve environmental outcomes.

To improve governance, a new national Environmental Protection Authority (EPA) needs to be established as the chief environmental regulator and to assess and approve projects, monitor compliance and take enforcement action. Furthermore, a new National Sustainability Commission be established to set national environmental goals and standards, coordinate national plans and actions, develop policy responses to current and future environmental impacts and in light of scientific evidence, and publicly report through Parliament each year on the state of the environment, impact of actions and environmental outcomes. The government should be required to respond to these reports.

And finally, resourcing has been a constant issue for the effective implementation of the Act. Government funding should be increased to enable this, such as resourcing to enable the effective implementation of environmental protection and restoration, and the listing and conserving of threatened species and ecological communities.

Thank you for your consideration of my submission

Sincerely,

Alec Roberts

Chair CLEANaS

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References

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