

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XFZG-C

Name

Alan Barlee

State or Territory

Victoria

Areas of Interest

Threatened species; Matters of National Environmental Significance; Cumulative impacts; Climate change; Public participation in decision making; Biodiversity; Conservation; Water; Refer to 32 below for my background details that are relevant to this submission.;

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 most obvious omission from the present Act is reference to human-induced climate change and its accelerating impact on the Australian (and the world's) environment. EVERY element of the future EPBC Act will pivot around whether this fundamental problem is being comprehensively dealt with, and at an adequate rate.

This fundamental national consideration has to underpin all other scale questions, including 'landscape' and 'bioregions' - useful as these are in extending current local horizons.

This implies that further centralising of both the focus and the the regulatory reach of the Act will be necessary - but overseen by a 'War Cabinet' of State, Territory, Opposition and major cross-bench party leaders, which in turn will be advised by An 'Environment Protection Authority' comprising representatives of relevant scientific bodies, economists, local government, peak business and peak community groups.

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 in ESD is an excellent economics concept in both pass/fail and priority decision-making. However, there first needs to be broadly-based acceptance of scientifically based valuations of the biological and physical services that are provided by the natural world, damage to

which are core elements of 'cost'.

This concept is not yet part of the ultimate equation, and should therefore form an essential part of ESD within the Act.

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

The future climate context within which the Act will operate should be front and centre. Each of the objects of the Act will be driven by the need to both mitigate and adapt to this unfolding reality, and this needs to be acknowledged in their redrafting.

This implies a far more global view of the Act than its current version - and that envisaged in the discussion paper. Each future object should recognise both the impact that climate change is having / will have on it, and should specify how it will contribute to either mitigation of or adaptation to climate change and its main drivers.

This will be an interesting drafting challenge, but the outcome could greatly influence other sectors of our government, our economy and our community in a positive way.

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

Climate change impacts should also be reflected as the key context of each of the 'Matters of Environmental Significance'.

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?

(a) Biodiversity should always trump assessment and approval processes when they are in conflict. 'Big picture' conservation is a broader and more fundamental national (and global) human need than relatively local and shorter term development. Coal mines and natural gas fracking are clearly inconsistent with both the broad and the local imperatives of environment protection, especially so when there are economic renewable energy alternatives available.

(b) While participation in decision-making and incentives are important, and should be increased, regulation and management will continue to be an important features of environment protection in a country as large and as culturally diverse as Australia.

(c) Offsets should be regarded by the Act as the least desirable option for ESD, and need to be restricted to at least the same bioregion.

(d) A biodiverse and healthy environment directly affect human nutrition, physical and spiritual health and ultimately world peace. All of these are either at risk or are serious decline, both in Australia and globally, as we try to absorb the impacts of an increasing population and unbridled consumption patterns.

(e) Reform should focus on restoration of damaged landscapes through expanded tree planting, soil carbon management and smarter land and water use. Lowering the intensity of population pressure through decentralisation will also be a key element. It is recognised that this is a policy matter for governments, but the EPBC Act needs to be drafted in a way that encourages and rewards these essential changes.

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?

It is clear from a number of scientific reports and from our individual perceptions that despite the intent of the Act since its launch 20 years ago, it (and we) have failed at the first hurdle - to protect and enhance the Australian environment and biodiversity.

A complete reset of the EPBC Act is now needed, which will reflect urgent and rational responses to the relentless climate change that we are all inducing, as well as to the narrowing buffer between 'the wild' and our farms and cities that is placing us in harms way, through both pandemics and declining food security.

Sound consideration of these fundamental matters should explicitly guide the stated priorities of the Act's objects and processes.

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

The following reports provide comprehensive evidence to support my earlier and subsequent opinions - and the likely future climatic and social trends around which a reformed Act must pivot :

State of the Environment Report 2016

Australian Bureau of Statistics (ABS) population projections

CSIRO's global megatrends analysis

State of the Climate reporting by CSIRO and the Bureau of Meteorology (BOM) Treasury's

Intergenerational Report

Australia's Faunal Extinction Crisis Inquiry Interim Report

ACF's Fast-tracking Extinction Report

ACF Background Brief: National Greenhouse Gas Inventory

ACF Background brief: Environment spending in Australia

Australian Panel of Experts on Environmental Law Report

Places You Love Reports and Resources

Senate Standing Committees on Environment and Communications Interim Report on Australia's faunal extinction crisis

State of Environment 2016 Report

WWF's 2018 Living Planet Report

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

Given our poor track record it is now critical that we get to a consensus model between all the players that have a significant role to play in restoring and managing the Australian environment and biodiversity.

Economic development must fit around a tightly prescribed and managed set of policies and processes, and not shoulder them aside with lobbying and with populist slogans and corporate advertising.

As stated previously, this will require a degree of leadership , consultation, consensus, centralisation

and thoughtful delegation that we have not previously seen in this arena. The EPBC Act reforms must clearly describe this new model, which should then be actively marketed by politicians of all political persuasions at every level of government. The Act should reflect the sharp end of community concern and priorities.

The raft of new and regional training / retraining and employment opportunities must be identified and sold to the wider community, in order to gain widespread support for the new Act.

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?

Defined targets that are spatially explicit and time-bounded are central to a serious intention to both protect and restore damaged landscapes and lost biodiversity. This is a core role of expanded national environmental standards - an essential task for the Commonwealth Government and for the reformed EPBC Act.

Incentives and regular public reporting of outcomes will be important features of an effective Act.

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?**

Quoting the discussion paper:

'More action to support the recovery of species and ecosystems through national environmental law, or its application, may help in achieving ecologically sustainable development in the future. This is particularly true in the face of growing demands on natural resources and a changing climate'. I completely agree with this proposition, and support the widening, strengthening and (probably delegated) enforcement of national environment standards.

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

As previously indicated, the reformed EPBC Act should address both protection of what we have, as well as restoration of what we've lost.

The Act should certainly 'encourage greater recognition of privately-owned heritage places through appropriate incentives'.

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?

From the Discussion Paper,

'Most projects are still being assessed on a case-by-case basis, with little differentiation for risk to

the environment',

and -

'Improving the efficiency and effectiveness of regulation through changes to the Act or its implementation may also improve environmental outcomes focus of regulation toward areas of the greatest environmental benefit'.

Both of these improvement areas should be reflected in a reformed EPBC Act.

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?

It should be possible for the Act to cover both strategic assessments and case-by-case assessments (the latter perhaps defined by one or more thresholds of scale and potential impact as to the depth of assessment required).

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?

From the Discussion Paper -

'The information collected to support environmental approval decisions under the EPBC Act and those by states and territories is not easily accessible or transparent'.

This is an obvious deficiency in how the Act is administered. A reformed version should publicly specify the detailed basis of how approvals are made or rejected.

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?**

It should be possible for the Act to cover both strategic assessments and case-by-case assessments (the latter perhaps defined by one or more thresholds of scale and potential impact as to the depth of assessment required).

As the Discussion Paper reminds us, 'Many of Australia's ecosystems are at risk from a broad range of threats, including invasive species, habitat loss and climate change. There are also future development pressures from urban growth and resource developments in particular geographic areas'.

Regional / Landscape scale (or larger in the context of mitigating or adapting to climate change), based on a national environment database and national mapping, would therefore be my preferred way ahead. The value here has been well demonstrated.

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?

There seems to be scope and relevance for BOTH habitat management at a landscape-scale' AND 'species-specific protections'. The latter should form sub-sets of the former, i.e. most if not all species-specific protections should be cast in a wider regional or landscape context to which specific umbrella objectives and processes apply - rather like local government planning overlays that must be respected.

National standards and an accreditation process for scientific, economic and social advice and management should both be defined and mandated in the new Act.

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

Yes.

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

Self-regulation incentives and accountability measures are not well known or understood in the wider community - and in the absence of appropriate audits are likely to be abused by some participants at all scales and regions.

Indigenous counsellors and auditors could well be employed and trained to manage this element where appropriate, which should enhance community engagement.

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?**

See Q 18 response.

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?

The overriding consideration is to make decision-making, management and reporting non-partisan over the long term - not possible while the Environment Minister is the primary decision maker, accountable only to the parliament.

The Minister should at least be required to balance advice from a statutory national Environment Protection Authority, which would in turn have appointed representatives from bodies with scientific expertise in climate and natural environment (flora and fauna), as well as from bodies with expertise in economics, business and the community interest (e.g. the Australian Conservation Foundation - with its proven track record in both Australia and Antarctica).

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?

(a) The discussion paper suggests some innovative concepts that could be further investigated and considered for inclusion in a reformed EPBC Act. These include:

Increasing the role of environmental accounting, incentives and ecosystem services markets to complement environment protection rules.

(b) Development of markets in biological ecosystem services ('e.g. air and water purification, flood mitigation, and the stabilisation of climate' - but in terms that extend Australia's 2030 commitments to the 2015 Paris Agreement and to zero emissions by 2050. The paper notes that 'Examples of potential markets for ecosystem services include tradable units for carbon sequestration, and biodiversity conservation'.

I support a positive incentives-based approach, which contrasts favourably with the present rules and penalties system' in terms of both management efficiency and environmental outcomes. However, markets alone won't meet all the Act's objects, as my responses to earlier questions have indicated.

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?

There is a place for properly authenticated and monitored offsets in the ESD space, but these should be bottom of the list of options and the limited to being regionally localised.

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

(See Q 22 response)

The Commonwealth clearly has a role in establishing and managing new environment markets. The once-supported cap and trade emissions market concept is well established overseas, and could be a useful model to begin with.

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

I agree with the Discussion Paper's thinking about developing national environmental accounts and leveraging strategic private sector investment to improve environmental and business outcomes. Sustainable agriculture, carbon emissions reductions, more inter-connected areas of protected habitat and regional development are all useful examples of what could be pursued in this space.

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?**

(I'm not qualified to answer this one!)

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

The obvious missing principle is the absolute connection of the environment to a stable long-term climate - and in the interim, to mitigation and adaptation imperatives that are needed now to protect the environment and all its life forms - including humans. This principle needs to strongly assert this principle as being the most fundamental of them, since none of the others will matter if it continues to be all but ignored.

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

No.

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

Poorly.

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

No - for the reasons given above.

QUESTION 30: What are the priority areas for reform?

No. 1 priority is recognising the central element of mitigating and adapting to climate change.

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

See above responses.

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

My background includes industrial chemistry qualifications, a Royal Australian Chemistry Institute fellowship and 32 years in the chemical industry in Victoria. Treatment and disposal of process wastewater and off-gases exposed me to the regulatory processes as they progressively tightened through to the early 90s.

I spent the next 10 years in a regional sole trader business, designing and installing solar PV and hot water systems, and also in a Melbourne-based partnership business designing and installing Melbourne's first 100 grid connect solar PV systems in association with Citipower. During this time I was an office bearer / director in an evolving national industry association which spearheaded the development of national standards, training and accreditation for its members prior to the industry going mainstream.

I subsequently led a local Landcare group that successfully applied for a series of grants to progressively eliminate the scourge of willow and blackberry along the Upper Ovens River. This project included convening over a several years a public land managers' meeting to address project-related public safety and to coordinate on-ground works by contractors and volunteers.

During this period I also spent time as the community representative with North East Water committees, investigating the environmental impact of aquifer disposal of primary-treated sewerage from Upper Ovens Vally townships, and assessing the feasibility of converting decommissioned townswater supply dams to an accessible wetland for fish and platypus.

I held a ministerial appointment to a committee that managed the distribution of appeal funds, following extensive flooding in the lower Goulburn River region in Northern Victoria.

On behalf of Goulburn-Murray Water I later held another ministerial appointment to chair an Upper Ovens River groundwater reference committee of irrigators and GMW officers which studied the hydrology issues related to groundwater extraction, and which produced a template study and recommendations for this and other Victorian rivers.

On behalf of the Geelong Sustainability Group I wrote a submission to Victoria's DELWP in 2016 on the need to preserve and develop the Moolap wetland in Greater Geelong as a sanctuary for the many migratory shore birds that feed there during summer. Once a saltworks, and with a decommissioned aluminium refining and rolling plant adjacent to it, both areas were subject to canal-style residential development proposals that would have destroyed the seagrass and driven away the feeding shorebirds, the protection of which the government is committed to through international agreements.

I have also been actively tracking with increasing concern the science and the potential impacts of climate change on the global environment since the early 1970s.