

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XQ1M-M

Name

Brenton Hosking

Organisation

Wynyard Landcare

State or Territory

Tasmania

Areas of Interest

The objects of the Act; Threatened species; Heritage; Matters of National Environmental Significance; Environmental Impact Assessments; Cumulative impacts; Climate change; Compliance and enforcement; Public participation in 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?

I agree with the proposition that attempts to add new matters of national environmental significance do not go far enough.

In Tasmania and in our local region there have a number of rollbacks of environmental protection provisions affecting land use planning, deforestation and the unequal support provided to the forestry industry driven by ideological mantra from the governing party.

These policies are affecting the rate and extent of conversion of native forests into plantation areas and promoting the largely uncontrolled clearing of native forests on agricultural land. These policies are impacting the connectivity of remnant native forests, exacerbating the loss of habitat and biodiversity across the region.

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?

Greater inclusion of cost benefit analysis in decision making is critical to the consideration of environmental, social and economic factors. In many cases it appears it is non existent or biased towards maintaining the status quo.

One example from the local setting is the approach taken to forestry management where the social and economic imperatives to maintain and expand existing practices and industries outweigh any consideration of biodiversity, cultural and heritage values. Assessments are largely undertaken and reviewed inhouse with oversight from agencies staffed by ex industry operatives. The methodology used to undertake the assessments are often flawed. Looking for nocturnal animals in the daytime will pretty much guarantee it can be reported that none were sighted; look for breeding sites in the nonbreeding season again provides the opportunity to happily tick the box that an assessment was undertaken, no impediments identified and fast track the logging process.

There is often no balance of heritage or other social or economic considerations...recent examples have seen the clear felling of remnant coups of native forest ostensibly to extract high value milling timbers. The agency responsible in its own reports indicates that a number of the tree species involved will not be available in commercial volumes after 2030. A recent survey of the quality of timber removed from one coup indicated that most of the timber extracted was destined for export as wood chips...a back of the envelope calculation showed the coup was sacrificed under tax payer subsidy for no economic benefit...the previous biodiversity values of the site replaced by a virtual monoculture of plantation timbers with limited environmental or biodiversity value.

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

Almost certainly. It's our experience that there is a dichotomy between the mantra of "jobs and growth" in support of existing practises/industries to the exclusion of proper consideration of alternative approaches.

Until the advent of the coronavirus lockdown, tourism and its associated activities were responsible for something like 3x the employment and economic activity of the logging industry in this region. Domestic and international tourists come to NW Tasmania to see what they can no longer find in their own backyards. Unique stands of native forest, flora and fauna that is as close to primeval as you might find anywhere on the planet yet there is limited protections from the policies and procedures of government.

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

It seems obvious that matters of national environmental significance within the EPBC Act should be changed. These changes can not be made from a state or local government level due to the long history of vested interest, disinterest and the influence of party political divisions over the issues such as climate change and the environment.

How this can be achieved? Not sure but placing an economic value on what will be lost in terms of

biodiversity, heritage and cultural values would have to be a start.

Tasmania is supposed to become the green, hydro powered battery for Australia...it may also have been the last hope to see pristine wilderness in the World.

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?

Biodiversity conservation doesn't seem to be on any agenda at either federal or state government level...the first step has to be demonstrate losing biodiversity and ignoring conservation values makes us all the poorer both physically and economically.

How this might be done is above my pay grade. No one likes additional regulation but as the current situation demonstrates, most people can or will comply if there are incentives.

What seems to be lacking is a consensus by decision makers that environment even matters...koalas going extinct because developers keep paving the forests ...the last healthy tasmanian devils running out of places to hide because native forest is converted to plantations just doesn't seem to make headlines.

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?

These are all questions outside my remit.

Number 1 has to be getting a number/cost/value on what Australia will look like if we do nothing. Our extinction rate for mammals is embarrassing...so too is our record on deforestation. But this obviously means nothing to decision makers if environmental values can't be demonstrated to have an economic merit.

The question is ...can any one trust government (state or federal) with environmental matters? Like the Nth bushfire royal commission/review; the umpteenth review into aboriginal welfare, the ongoing debate over whether climate change is real? The track record on implementation...putting good ideas that promote conservation into practise...is pretty appalling.

Locally, the rollback of earlier provisions the protect wilderness and forestry areas has had a number of unintended consequences for the future of native forests, flora and fauna...

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

The Discussion Paper indicates the review panel is well aware of the future challenges.

The link below points to an organization that is a marketing marvel. It is indicative of the contradiction between the rhetoric which speaks to the environment and the application which relies on less than world's best practise.

<https://www.sttas.com.au/about-us/our-plans-policies>

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

Environmental and heritage outcomes appear to be overlooked or ignored in the management of the environment. Some way or another there needs to be a change in focus whether it is the EPBC Act or another mechanism is unclear.

What is certain is that whatever is in place now is inadequate in addressing effective environmental and heritage values.

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?

The EPBC Act should position the Commonwealth to take a stronger role in delivering environmental and heritage outcomes. The track record for relying on the states to "do the right thing" is not good.

If the EPBC Act already includes tools that enable a form of environmental standards-setting through accrediting other legislative processes or plans that meet national standardswhere is their application in addressing the systematic, state sponsored attacks on conservation and environmental values in the removal of native forests in Victoria and Tasmania and the destruction of koala habitat in Queensland and NSW?

While the Commonwealth could refine policies and strategies to deliver greater clarity on expected national standards related to the objects of the EPBC Act where is the funding and/or regulatory will to ensure effective implementation?

Current standards may act as guidance, aiming to build consensus and national consistency but it seems a long way off to imagine how the Commonwealth and states and territories could agree to environmental standards for native forests.

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?**

Non-binding policy and strategies? Are patently unworkable...the track record with the environmental management of the Murray Darling Basin has to be a case in point.

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 might be a start but have time and money to get in place...Do we have this amount of time left?

The development of broad environmental standards with the Commonwealth taking a monitoring and assurance role? This idea has merit but requires resourcing.

Does the information exist to do this? Almost certainly...what is missing is the mechanism to ensure whatever standards are agreed actually get implemented.

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

Should the EPBC Act have a greater focus on restoration?

Define restoration? Wouldn't it be more cost effective to prevent the problems arising from a lack of environmental management from arising in the first place?

Should the Act include incentives for proactive environmental protection?
Almost certainly.

How will we know if we're successful?
If you have a standard, you know what your KPI are, you know when you're winning and you know when you're not. By any standard, current rates of loss of habitat, loss of environmental values and biodiversity are patently not up to "standard"

How should Indigenous land management practices be incorporated?
On an as needs basis where they demonstrate appropriate activity against the "standard"...Why would the act seek to identify indigenous practise as any thing different from any other effective/appropriate land management practice?

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?

Are heritage management plans and associated incentives sensible mechanisms to improve?

Improve? First demonstrate they exist and/or are supported under an environment an banner.

How can the EPBC Act adequately represent Indigenous culturally important places?
What measures to identify, monitor and document such sites will be included a national "standard"? How can they be resourced?

Should protection and management be place-based instead of values based?
I am not sure how you identify the difference without some framework to assign an economic value to the place/site/heritage/environmental value in the first place.

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?

Whatever mechanisms the current EPBC is using are clearly inadequate in delivering sustainable, effective and integrated outcomes for the preservation of the environment or biodiversity. Many countries have lost large natural habitat areas, but fortunately Tasmania still has large areas of wilderness. It is essential for the long-term sustainability of Homo sapiens that the remaining global habitats are preserved. 356,000 ha of high conservation value carbon-rich forests that were set aside for protection under the Tasmania Regional Forestry Agreement (RFA) became available, subject to parliamentary approval, for logging on 8 April 2020. All forestry operations subject to the EPBC Act without any exemptions. The most economic way to retain our natural habitat is to preserve what we presently have. Restoring logged and degraded habitat is much more expensive and takes at least 100 years for large trees to form hollows which many birds and possums require for nesting. The reliance on a case by case approach without an overarching strategic policy for implementation has brought us to the brink in native forest management, urban encroachment and water management.

The issue for any review of the EPBC is how is going to be resourced ? What agency is going to the assessments and implementation? What agency is going to police the application of the new standards?

The review should look at the track record of its successful projects to avoid a repeat of the ongoing difficulties that seem to beset anything involving different jurisdictions e.g. Murray Darling Basin, logging/development in areas of high conservation value.

QUESTON 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 has to be a given that matters of national significance be refined to remove duplication of responsibilities between different levels of government. The response to coronavirus has shown a glimmer of hope that different levels of government can coordinate an effective response to a crisis. But even then the differences between states means there is not a "one size fits all response".

History shows that the states are best at delivering on their own tribalism and self interest and the federal government doesn't have the best track record in handling or policing implementation (MDB, NBN, climate change policy) across jurisdictions.

Delegating delivery of the EPBC Act to the states may reinforce issues already encountered in

education policy, indigenous affairs and resolving the environmental politics of the Murray Darling Basin. The states do not have a compelling history to work cooperatively or to a standard.

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?**

Let's go back and review the processes for risk management. With no way to cost an environmental benefit or consequence how will it be determined what is low risk or not?

Data is essential...numerous databases already exist but it seems no decision makers include them in there assessments except under extraordinary circumstances. This is probably an unintended consequence of the flexible case by case approach used. Why aren't these databases better integrated into strategy and implementation policies?

Data from environmental impact assessments (EIS) should be made publicly available. The Adani debacle and water allocations in the MBD might have resulted in more environmentally considered outcomes if EIS were more readily available to a wider range of stakeholders.

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?

Habitat management is critical to management of biodiversity and conservation values. Native flora and fauna have evolved together in a landscape. If the landscape isn't protected there is no environment. Species-specific protections can't help if the animals have nowhere to live and nothing to eat.

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

Not if its simply enables the continuation of existing policies and practises. The overwhelming evidence is that the states do not do environment well.

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

Where is the evidence that self regulation is working?

A progressive rollback of funding to NRM and conservation management in support of the environment has seen increased industry based self regulation in agriculture, forestry and urban development. I have zero confidence that self regulation alone can turn around the current challenges to the environment.

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

How can we best engage with Indigenous Australians to best understand their needs and potential contributions?

An obvious starting point would be to implement some of the recommendations of the various reports into the resolution of factors affecting their perceived disadvantage, keeping them in education, in the community and able to participate more widely in the environmental debate.

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

Can some expert panel be developed whereby their interests and concerns can be captured along with those of mainstream biologists, environmental scientists and others working in environmental management ?

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?

Community representation in environmental advisory and decision making bodies should be increased.

Present arrangements for "stakeholder" representation are often skewed in favour of the proponent or developer and not so much toward the consideration of the environment.

Perhaps the introduction of some kind of Environment Outcomes Ethics Committee system such as that implemented for medical and scientific research could increase community awareness of the decision making processes involved and provide greater transparency than appears in the present approach.

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?

The discussion paper nails the inherent deficiencies of the current system. Leaving the ultimate powers to ministerial discretion has led to some hit and miss outcomes but in management there is usually only 1 boss.

The environment and its management for a greater good should be a matter for national consideration. The coronavirus inspired national cabinet might be an effective model for ensuring matters get serious attention, with some hope of action.

Who would be on this environmental cabinet might be contentious as most states see the environment as a lower order portfolio.

What it can be is another Murray Darling Basin Authority situation where significant money and resources did not provide an effective outcome.

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 challenge for any change to the EPBC is to identify ways to efficiently and effectively deliver the intended outcomes.

Sadly Australia's record in developing environmental markets (Carbon Trading Schemes, Water Markets in the Murray Darling) or allowing for industry self regulation has been expensive and the outcomes generally disappointing. While the theory that a market lead approach may offset the cost of change there is little evidence that this is plausible.

It is necessary to put some cost on the consequences of environmental management. Development of a standard methodology for environmental accounting and resourcing the dissemination of relevant information and education-based approaches, are not without cost but may have greater chance of delivering appropriate outcomes over the longer term.

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

Investment in new environmental markets and a trust fund for environmental outcomes, like the "Future Fund" are both ideas with merit.

The challenge is in implementing a regulatory framework that avoids recent experiences in the allocation of water licenses and ensuring the work excesses of selective allocations of federal monies aren't repeated.

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

Each of the Alternative financing approaches outlined in the Discussion document have potential. The challenge is in identifying a regulatory framework that actually achieves what it sets out to do...there must be some lessons to be learnt from the last few years of Climate Change debate. Nothing helps like self interest...if the Act can incentivise the environment and give it a profile in the mainstream of decision making it must be a step in the right direction.

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?**

Not my remit.

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

These principles are self evident and clearly and succinctly expressed. They outline a road map for the reform process.

They should be applied at each decision point in the review process to ensure the revised Act maintains focus.

What remains unclear is which components may stay in the final revisions and which may be deferred.

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

The Australian community has endured a number of environmental shocks over recent years. The ongoing conversation continues to include a steady as it goes, she'll be right approach. But the reality is different. Conversion of native forests to plantation timbers, loss of habitat, loss of agricultural land to erosion and urbanization, the state of the Murray river are just some examples of where there are opportunities for improvement. The extent to which the EPBC alone can/does contribute to the current status of environmental management is unclear but looking at outcomes alone I can't see how anyone could say it is efficient or effective.

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

See above comment ...it is complex and operates across jurisdictions with what I suspect is limited resources to effectively monitor or enforce requirements.

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

The current act seems toothless. It is hoped the revisions outlined in the Discussion Paper can be agreed and a more effective set of procedures can be implemented.

QUESTION 30: What are the priority areas for reform?

Refer to the list of Principles.

The biggest priority is to get a cost on the environmental consequences of our current practices. Whatever it is we are doing at the moment is not conducive to sustainable environmental management and maintaining biodiversity.

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

See previous comments

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

If we keep doing what we're doing, we are not going to see the changes in environmental management that are necessary to avoid becoming the world leader not just in extinctions but loss of biodiversity and habitat.