

SUBMISSION TO THE EPBC ACT REVIEW

ANON-K57V-XQEW-J

Name

Allira Cornell

State or Territory

New South Wales

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; Public participation in decision making; Biodiversity; Conservation; Wildlife trade; Commonwealth national parks; Nuclear; 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

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?

It has not gone far enough.

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 should be the standard. Cost benefit analysis, weighing environmental costs as far heavier than economic factors.

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

Specificity is not the issue, unless this is what is allowing the Act to let things slip through the cracks.

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?

Proactive mechanisms to enable landholders to protect biodiversity could save a lot of paperwork. However, the same deregulation should not apply if landholders are carrying out potentially destructive activities.

Who decides and enforces the "right circumstances"?

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?

The Act has failed every statutory objective. Why is this?

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

Climate Change has achieved emergency levels. We need to act accordingly and swiftly. If there's anything to take away as a positive lesson from the Pandemic 2020, it's that the impact of human activity is utterly undeniable. And Nature is resilient. Only a short Pause was needed to start the recovery process. However, all this will be quickly undone if we all go back to business as usual. The independent review needs to happen more frequently in order to keep up with this fast changing world.

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

The EPBC Act has not done enough to protect the environment. Improving outcomes for industry and the environment are often at loggerheads; in the current economy, industry benefiting environment is almost an oxymoron. Tighter regulations and enforcement of legislation will force industry to adapt. Money goes where profit flows. Ending ridiculous subsidies on environmentally devastating activities (such as coal and oil) will allow a proper overview of all impacts and true costs assessed. The cost to the environment and thus future generations must be placed as a higher value than cheap exports and short term GDP gains.

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?

Perhaps the Commonwealth will take more interest in the preservation of our natural bounty. However in my experience, it is the locals that know the true impact of outcomes and the State seems blissfully unaware of the true costs to biodiversity and environment. I am surprised the Commonwealth hasn't stepped in to stop the further destruction of the Great Barrier Reef. What's the point of having a World Heritage listing if it is allowed to be destroyed at such a rate and put under further potential future risk?

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 strategy seems soft. Gentle guidelines are impotent with such an important task. We need hard rules, fully enforced. Whether this is done as a Nation as a whole, or under the watchful eye of the Commonwealth, independent information collection and research for monitoring is required, with an eagle's eye for detail.

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

First, preservation and protection of what we have left, then restoration can help recover what's been lost.

Incentivising proactive environmental protection will definitely help. As well as punishing harshly any transgressions against sensitive ecosystems.

Indigenous land management practices have been used for millenia. We can learn much and incorporate them into our modern management plans.

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 EPBC should protect Indigenous culturally important places. These are very site specific in most cases and must be respected.

No more mining and plundering in sacred lands!

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?

Every case is unique and must be assessed as such.

However, strategic assessments could be done alongside.

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?

If this is what is causing things to slip through the cracks and the Act to fail so clearly to enforce its objectives, then duplicated responsibilities should be removed. Whether each State can be trusted to deliver the outcomes of the EPBC Act is debatable.

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?**

A national environmental database should be developed and made publicly available.

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?

If this helps protect an entire ecosystem, rather than species-specific, with potentially relocatable animals, it is beneficial.

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

No.

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?**

Indigenous Land Title should be irrevocable and non-transferable.

Consultation with the local Traditional Custodians should be thorough, transparent, timely (not putting unattainable deadlines or conditions on their response).

Traditional land management practices should be acknowledged, respected and followed.

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?

Absolutely. Local community should have more weight in decision making surrounding environmentally impactful projects. An example of this from my home town is the West Byron development proposals. This was rejected by our local council, with very good reason and many major environmental concerns, yet could be applied for at the State level instead. Any development application with such drastic impacts should have to address all concerns thoroughly and independently before proceeding. If these concerns can't be quashed, the DA should be rejected, with no higher appeals available.

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?

Decisions must be fully transparent.

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

Yes and yes!

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

The first principle is the most important and the EPBC Act has so far failed to live up to any of these principles. How can this review ensure that the future of the Act is a success story?

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

NO. It has failed every objective and presided over our worst decade for the environment.

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

Badly!

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

No, harsher times call for harsher measures. The EPBC has failed so far and the future is liable to be far more challenging.

QUESTION 30: What are the priority areas for reform?

The spirit of the Act has merit, however the atrocities committed against our natural environment, flora and fauna in the past decade have proved that the Act is not working and needs to be properly enforced.

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

See above and attached correspondence (Question 7)

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

Please consider that we are entering a period of profound future impact. We have lost so much already and continue to plunder our natural resources like there's no tomorrow. Will we be the generation that any future survivors blame for their plight? The ones that stood by and did next to nothing to stop the catastrophe we've seen coming for decades now. This Act claims to try to address these ubiquitous issues, however its efficacy in doing so is questionable at best. Where is it falling down??

ATTACHMENT

Additional information was provided as an attachment to this submission. The attachment is provided on the following pages of this document.

Dear Professor Samuel and Independent Review Panel,

I would like to make a submission into the 2019-2020 Independent Review of the EPBC Act.

This submission will cover:

- Major issues I see with how the EPBC Act protects our native wildlife, especially in regards to development in sensitive areas, and in light of the increasing threat posed by Climate Change;
- The Government's failure to ensure that the funding and actions needed to protect our unique ecosystems are in place; this includes the gross mismanagement of the Murray Darling Basin and failure to protect the purity of our water sources;
- The Government's failure to protect the World Heritage Site of the Great Barrier Reef from further and increasing damage, particularly in relation to Santos and Adani's mining activities;
- The catastrophic effect of the 2019-2020 summer bushfires, and how we must respond as a nation;
- Where I think the EPBC Act and related Government policies need to be reformed.



I live in the Byron Shire, a place celebrated for its natural beauty. Our family land has been a Wildlife refuge since the early 1980s when we moved to the region. As a result, we have an abundance of native fauna, some rare and endangered, such as the Southern Pink Underwing Moth, as well as some ancient remnant rainforest. We have planted an eucalypt forest and have koalas reliant on this patch for their migration. It saddens me that local development has seen our koala population decline dramatically, as we have seen in almost all regions of Australia. Will we lose our iconic mascot? (<https://www.savethekoala.com/about-koalas/koala-endangered-or-not>, <https://www.statista.com/chart/20124/decline-of-koala-populations-in-australian-states/>, <https://www.wwf.org.au/ArticleDocuments/353/pub-current-status-of-the-koala-in-queensland-and-new-south-wales-19may17.pdf.aspx?Embed=Y>, <https://www.theguardian.com/environment/2020/mar/04/bushfires-likely-to-have-killed-about-5000-koalas-in-nsw-report-finds>, <https://theconversation.com/a-report-claims-koalas-are-functionally-extinct-but-what-does-that-mean-116665>)

Locally, specifically, the West Byron Development proposal flies in the face of conservation, is potentially devastating to our local, already struggling population. Turned down by our local Council, the developers have applied to the State. This should not be allowed. Local concerns for environmental impact – particularly of endangered and critical species – should place a moratorium on further applications until full independent investigations and assessments have been made. Our community has been fighting these DAs for YEARS. We keep winning the fight, only to find they've reapplied above our heads. I would have hoped the EPBC Act would serve to prevent such developments going ahead. Why have a Federal Act that can be overridden by State power and pro-development pen-pushers that don't even live in the area? It is exactly these situations that the EPBC was designed to prevent. Conserving biodiversity and protecting the environment is its definition, by name. It seems the Act has failed on every single objective. The last decade has seen the worst environmental outcomes on record. Of course, Climate Change is against us, but that is precisely why we must make the powers of the EPBC Act stronger and actually serve to protect and preserve what we have left.

My parents instilled in me a love and respect for nature in all its wondrous beauty. As a child, my family took trips to the Great Barrier Reef. It breaks my heart that my children will not witness the Reef in the splendour it was back then. Let alone their children's children – will there even be a Reef left? The fact that the Government is even considering allowing Adani's mine to go ahead shows great disregard for our responsibility to protect this World Heritage site. It should not even be being debated! The EPBC Act has not gone far enough in legislating to permanently protect – and recover – our unique and magnificent natural heritage. The value placed on preserving these precious remnants for future generations and the good of the planet should be higher than any coal subsidy could cover. Nature should be treated as an entity unto itself, as per Christopher D. Stone's theory, able to sue corporations for their indiscretions against her. This has been done in New Zealand and India for their mighty rivers, for example; indeed Ecuador's Constitution enshrines Nature's "right to integral respect". This may be the only mechanism available in order to save these places' ubiquitous and famed native bounty from being abused by the highest bidder. Australia could certainly use this kind of policy to stop our disgracefully polluting commercial and industrial practices.

(<https://journals.openedition.org/vertigo/16199?lang=en>, see also Aikaterini Argyrou & Harry Hummels (2019) Legal personality and economic livelihood of the Whanganui River: a call for community entrepreneurship, *Water International*, 44:6-7, 752-768, DOI: 10.1080/02508060.2019.1643525 sourced: <https://www.tandfonline.com/doi/full/10.1080/02508060.2019.1643525>)

By stark contrast, our own precious Murray-Darling river complex has been grossly mismanaged, resulting in mass fish deaths, whilst farmers continue struggling downstream of water being sold. They are forced to watch this life-saving resource pass them by as their livestock dies from drought induced dehydration. Water purity must be protected, with drought conditions immediately halting water being extracted to be sold elsewhere. Why have "sustainable diversion limits" only just started being enforced last year?! The crisis has been apparent for years – decades even! Who is deciding these limits in the first place? Are there conflicts of interest? It is clear the management of the Basin - the Nation's precious "food basket" - has been prone to corruption for a long time now.

(<https://theconversation.com/the-murray-darling-basin-scandal-economists-have-seen-it-coming-for-decades-119989>, <https://www.mdba.gov.au/basin-plan/plan-murray-darling-basin>)

Companies must be accountable for their environmental impact, so short-term profitable pillaging of resources are assessed according to long term effects. Preservation in perpetuity should be the ultimate aim. In Europe, the end life of products remains the responsibility of the companies creating them, with fines for continuing malpractice, naturally incentivising investigating environmentally sound alternatives.

Recently, with the Bushfires, I had three families from Goonengerry come stay with me when they had to evacuate their properties. They were lucky in the end, unlike so many others, with countless wildlife lost too. Surely if there was ever a sign that strong action is needed, it was this massive Bushfire event. The fact that logging has already begun to be undertaken in the unburnt section of the Nambucca State Forest is utterly shocking. (<https://www.nambuccaguardian.com.au/story/6695906/logging-to-begin-in-nambucca-state-forest/>, <https://www.nambuccaguardian.com.au/story/6714418/call-to-action-to-save-rare-pockets-of-nambucca-state-forest/>, <https://www.theguardian.com/environment/2020/mar/15/state-mps-dismayed-at-nsw-forestry-logging-unburnt-habitat-after-bushfires>)

It was a worrying trend to dispense of Indigenous Park Rangers (and park ranger numbers in general) prior to the bushfire crisis. As the EPBC Act itself states, their knowledge, traditions and customs, formed over millennia, must be respected and integrated into our practices. The ancient wisdom of tending to the land is the key to finding a balanced future, living in harmony with nature.

Indeed, during this lockdown from the Covid-19 pandemic, we have seen clearly our intense impact on the environment worldwide, as well as how quickly Nature can begin to recover, if we apply a “cease and desist” order on human activity. It is imperative we do not return to business as usual post this Great Pause. This is our chance to begin again.

Australia has the clear and obvious prospect to lead the world in renewable energy, with such abundant sunshine – and this is only one avenue for energy generation. Funding to help develop these technologies should be available, as well as generous incentives for citizens to adopt the technology. Although these government rebates exist, their value has been rolled back, rather than increased. Funding should also be available for retraining workers in the existing energy industry to support the multitude of new jobs that will be created as we migrate to become sustainable leaders. Saying “the Future is Coal” is flogging a dead horse and missing a golden opportunity to not be the laughing-stock of the world. Please help ensure that this “land of plenty”, abounding in nature’s glory, still exists to impress future generations. The EPBC Act needs to step up to ensure this.

The recent Senate Inquiry into Australia’s faunal Extinction Crisis found that was because the EPBC Act "is incapable of addressing" our current extinction threat. What is the point of a powerless Act? I am deeply disappointed that the situation is not being dealt with and I expect the Australian Government to:

1. Ensure Australia does not return to business as usual after the catastrophic 2019-2020 summer bushfires. The same laws and policies that have failed wildlife over decades and done little to mitigate the climate crisis cannot be relied upon to help us recover after the bushfires.
2. Australia must ensure our ecosystems are healthy and resilient to sudden shocks like the 2019-2020 bushfires, not just return to the pre-bushfire population levels.
3. Establish an independent National Environment Commission to ensure we develop a fit-for-purpose, coordinated national (state and federal) system of environmental protections and policy responses necessary to support restoration of our environment to health and ensure regulatory resilience to future impacts, publicly report every year on the impact of conservation action and funding, and show clearly whether natural values are recovering.
4. Establish a new National Environment Act that enshrines Federal Government leadership over nature protections, contains real safeguards against extinction, including ending the destruction of endangered species habitat, and sets out clear rights of appeal and consultation for communities.
5. Establish an independent Environment Protection Agency to act as watchdog over the system and ensure our laws are properly enforced.
6. Ensure that sufficient money and resources are put in place so that nature can recover. This includes an immediate halt to logging regions effected by the Bushfire Crisis.
7. Ensure a central role for community, with guaranteed rights and participation in planning and decision-making.
8. End all logging in Old Growth Rainforest and mining in National Parks. No exceptions under any circumstances.
9. Change the review timeline for the EPBC Act from 10 years to 5 years, in order to adapt to probable increasing climate change emergencies.

Thank you for considering my application. If you would like to contact me about my submission, please email: [REDACTED]

Best wishes,

Allira Cornell

