

## Review of the EPBC Act 1998

### Submission

17 April 2020

Southern Sydney Regional Organisation of Councils

This document is the content of the submission made online at:

<https://epbcactreview.environment.gov.au/>

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### 1 About You

1. What is your name?

First name

Last name

2. Are you making this submission as an individual or on behalf of an organisation?

~~Individual~~ **Organisation**

Organisation name (if applicable)

What is the scope of your organisation? -- Please Select --  Local  State  
 National  International

3. What sector best represents you or your organisation?

What sector best represents your organisation? Please Select

- Agriculture
- Academia and Research
- Construction
- Education
- Electricity, Gas, Water and Waste Services
- Environment
- Financial and Professional Services
- Forestry and Fishing
- Government**
- Health Care and Social Services
- Legal Services
- Manufacturing
- Mining
- Scientific and Technical Services
- Tourism
- Transport
- Other

If Other, please specify:

4. Which State or Territory are you from?

New South Wales

5. Do you identify as Aboriginal or Torres Strait Islander?

No

6. What are your key areas of interest in the EPBC Act?

- 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**

Other

7. Can the EPBC Act Review Secretariat contact you about your submission?

The review may be interested in getting in touch with you about your comment. Please indicate if you give permission for this and provide your email address for the secretariat to be able to contact you.

Yes

If Yes, please enter your email: [ssroc@ssroc.nsw.gov.au](mailto:ssroc@ssroc.nsw.gov.au)

Information collected during the review will be managed consistently with the Department of the Environment and Energy's Privacy Policy. This applies to any private details provided.

## 2 About the EPBC Act

The EPBC Act, as Australia's central piece of national environmental law, reflects the role of the Commonwealth to address matters of national environmental significance, provide a nationally coordinated approach to managing our environment and meet our international commitments.

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?

Past changes to the EPBC Act have not resulted in reducing our dismal rate of faunal extinction and habitat loss. The complexity of the legislation, limitations to what is included in the objects and matters of national environmental significance and disregard for cumulative impacts, all hamper the likelihood of achieving meaningful and lasting environmental outcomes. Additionally, poor performance in enforcement of regulations, as well as monitoring and reporting of outcomes makes it extremely difficult to have confidence in the current processes.

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?

The principles of ESD as delineated in the Brundtland report 1987, require the present generation to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations. The EPBC Act does not appear to address this either directly or indirectly.

Unfortunately, in Australia we are not well skilled or adequately informed about environmental accounting and to many, conventional cost benefit analysis with regard to environmental protection or conservation seems a contradiction in terms for many reasons. It does not consider externalities, intrinsic values or unquantifiable costs and benefits. Additionally, time frames are critical in any analysis, e.g. short-term economic gain can result in long term loss of critical environmental services.

Healthy ecosystems deliver services such as clean water and air, soil stability and fertility, climate regulation and carbon storage. Such valuable necessities of life are rarely accounted for in any project costs. These economic externalities should not be taken for granted and even their maintenance costs should not be ignored.

Sustainable use of natural resources (including environmental resources and services) implies that natural capital is not diminished or depleted and available for future generations. Short to medium term economic benefits to government or the private sector often appear to be overstated, whilst medium to longer term costs to the environment (including their loss of ability to provide environmental services) are either not known, under-investigated, under-reported, cited as too hard to measure or just ignored.

Apart from environmental services providing social health benefits and well-being to all Australians, there are additional social benefits that could be realised with Indigenous people's management of National Reserve areas such as National Reserve.

Cost benefit analysis is of minimal relevance in the achievement of ESD. However the Precautionary Principle and the Principle of Intergenerational Equity are the most important principles of ESD and could better reflected in the EPBC Act.

3. Should the objects of the EPBC Act be more specific?

The objects of the EPBC Act are limited in their breadth and scope and improvement could be achieved by expanding objects to include the following:

- Recognition of the National Reserve System as areas of environmental significance

- Recognition of Indigenous Protected Areas (IPA's) and strengthened intent to include Indigenous knowledge and practices of land management
- Recognition of the need for protection and maintenance of ecosystem services provided by healthy intact biodiverse ecosystems
- Recognition of the importance of comprehensive monitoring and reporting, including assessment and reporting of cumulative impact.

#### 4. Should the matters of national environmental significance within the EPBC Act be changed? How?

Matters of National environmental significance are limited and not well defined.

The following should be added to the matters of national significance.

##### **Ecosystems and communities including:**

- Vulnerable ecological communities
- Regional ecosystems and habitats for threatened or endangered species.
- Ecosystems of national importance with a landscape scale focus. Examples could include
  - Key biodiversity areas
  - Nationally important wetlands
  - Travelling Stock Reserves
  - Significant wildlife corridors
  - Wild Rivers
  - Outstanding representations of particular Australian landscapes
  - Climate refugia - areas that remain relatively buffered from contemporary climate change over time and enable persistence of valued physical, ecological, and socio-cultural resources.
- Significant water resources
- Actions generating of significant greenhouse gas emissions
- Cumulative impacts
- Indigenous fire management practices

##### **Significant Land Clearing Activities**

Land clearing was listed as a Key Threatening process in 2001. There is currently no specific trigger in the EPBC Act to regulate the serious impacts of land-clearing, deforestation and land degradation, unless it can be established that it impacts a directly protected entity such as a World Heritage area, Ramsar wetland, threatened species, ecological community, or migratory species. If this connection cannot be established, no environmental assessment under the EPBC Act will occur.

Land clearing is mainly regulated by state and territories with limited effectiveness or oversight. Deforestation and excessive land clearing fundamentally impact existing biodiversity, damages fragile ecosystems, destroys wildlife habitat, and increases greenhouse gas emissions. In Queensland, where much of the land clearing is taking place, the state law (Vegetation Management Act) is not strong enough to diminish incentives for land clearing. Yet the national environmental laws have not provided greater protection.

## Significant Water resources (beyond coal and gas impacts)

Protection of water resources should be expanded beyond Coal Seam Gas and coal Mining. The absolute dependence many species and ecosystems on a reasonable, even if irregular water supply, means that without assistance and intervention, biodiversity loss will continue, particularly in riverine areas. Groundwater resources can span across states, needing both national protection and action to remediate contamination.

Additionally, with the revelations of alleged water theft and systemic non-compliance, particularly in the Murray-Darling Basin, additional protection is needed for water resources (i.e. environmental flows) to provide for critical habitat and ecosystem protection and maintenance.

## Climate Change and Significant Green-house gasses

Climate change is recognised as having a severe impact on the survival of species across the globe and in Australia it is seen as one of the major factors in biodiversity decline and species loss in both the terrestrial and marine environments.

Loss of climatic habitat caused by anthropogenic emissions of greenhouse gases has been listed as a Key Threatening Process since 2001. The EPBC Act should address the impacts of climate change on biodiversity. Projects or activities with expected high greenhouse gas emissions (or footprints) should be assessed before approval with limitations placed on emissions and (as with other activities generating environmental pollution likelihood to cause environmental harm), appropriate regulations should be costed and enforced.

## Cumulative impacts of multiple pressures

The State of the Environment Report 2016 confirms Australia's biodiversity decline is largely due to the cumulative impacts of multiple pressures. The EPBC Act should oblige consideration of both the combined impact of past and likely future activities, the interaction of impacts from proposed activities and other stressors, and the prospect of approval setting a precedent for further development in the same location or of a similar type. Additionally it should be recognised that the impacts of multiple individual stressors on species or ecological communities are often unknown, and precautionary principles should apply.

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 following are recommended priorities for process reform:

- The discretionary power of the Minister to make decisions under the Act does not ensure good decisions, appropriate accountability, or that they achieve the Act's objectives accordance with ESD principles
- The scope of the current Act, including potential new triggers for matters of national environmental significance (as proposed in Question 4)
- The apparent lack of:
  - mandatory monitoring
  - mandatory referrals for local approval that affect EPBC matters to federal agencies, and

- enforcement of compliance with conditions of approval of EPBC Act decisions
- Inclusion of accounting for ecosystem services such as water, clear air etc
- Address delays in determinations and enforcement actions due to ‘administrative delays’

Additionally, the following matters are recommended as priorities that should be addressed for biodiversity conservation:

- Land clearing
- Expansion of matters of national environmental significance to enable protection of ecosystems and habitats at land-scale
- The inadequacy of key threatening processes and threat abatement plans (made for threatened species), to protect biodiversity, ecosystems and habitats – particularly where no threat abatement plans are developed.
- Loss of or threat to terrestrial climatic habitat caused by anthropogenic emissions of greenhouse gases

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 is a process-based system as opposed to an outcome-based system. Improvements would include legislation requiring particular outcomes rather than just requiring an assessment process to be undertaken and then leaving the decision at the discretion of the decision-maker.

The review should examine if the EPBC Act in its current state, is fit for purpose - including:

- The aim of the Act
- The role Ministerial discretion in decision making
- Examine the beneficial impact that independent oversight of the Act may bring
- Is the scope of the Act adequate to achieve its aims?
- Does the complexity of the Act limit its general understanding, adoption and effectiveness?
- Does the complexity of the Act contribute to administrative delays?
- The role of monitoring, compliance and reporting to achieve outcomes, not just administration and number of fines issued.
- Lack of recovery plans for all listed threatened species

Recovery Plans can prevent extinction of threatened species. They are long-term in nature, providing an evidence-based strategy to work towards species protection regardless of changes in Government that may occur. Thus, in order to address the faunal extinction crisis, the Act should restore the requirement for Recovery Plans for all listed threatened species and fund plan development and implementation.

Whilst the Australian Economy has consistently expanded over the past 20 years – the cost to the environment (in terms of biodiversity loss and degradation of ecosystem services) has not been examined, calculated or reported. Given Australia’s high rate of known extinctions, clearly our approach to development has not to date demonstrated ecological

sustainability. Saying that the impact is difficult to measure – is insufficient reason to ignore and allow practices that have a high potential for negative impact.

### 3 What the future looks like

As independent reviews of the EPBC Act occur once each decade, it is important that this independent review ensures its recommendations are fit for the future.

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

Consideration of the impacts of future climate change should be a major element for the review together with application of technology improvements for better monitoring into the future.

A recent (2019) report, *“This is what Climate Change Looks Like”*, produced by the Climate Council, provides a range of graphic examples of how climate change is affecting the Australian environment and contributing to biodiversity loss. The report recommends a far bolder approach to conservation to ensure our species and ecosystems are as resilient as possible to worsening extreme weather. This may include creating and connecting new habitats and the translocation of some species to prevent further extinctions.

The 2016 State of the Environment Report identifies climate change and cumulative impacts such as changed fire regimes, invasive species and changing land use have all contributed to significant population declines. A lack of effective monitoring and reporting is a major impediment to understanding the state and trends of Australian biodiversity. However improved tools and technical advances are becoming more available, sophisticated and cost-effective for biodiversity assessment, monitoring and management.

## 4

### 4.A The role of the EPBC Act

There are concerns the EPBC Act has not done enough to protect the environment. Business and government at all levels are impacted by environmental regulation of activities. This regulation is resulting in unnecessary uncertainty and delays with flow on impacts to industry, governments and the community. The review provides the opportunity to modernise national environmental law to improve outcomes for industry and the environment both now and in the future.

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

Neither regulatory process is should be preferenced, rather all options should remain available, dependent on the specific activity under consideration for approval.

For example, prescriptive or risk-based regulation in environmental management can work where the risk is known, quantified and a suitable proven management strategy can be applied. Where there are confidence limitations to likely risk of impact, or future unknowns (such as increased temperature or exposure to more frequent fires), it may be difficult to have confidence in the outcomes over longer time periods.

Prescriptive processes can be challenging and costly to implement and have high administrative costs. Additionally, failure to adequately enforce and apply penalties can reduce the benefits of prescriptive processes achieving environmental protection in the long term.

Outcomes-based regulation can also allow more efficient and effective use of regulatory resources, however, is also not without risk. Sufficient baseline environmental information will be a requirement as outcomes are difficult to define or monitor in the absence of adequate and appropriate comparative environmental data. Approval conditions could also be difficult to enforce if the stated outcomes are too ambiguous or subjective.

This could occur through lack of appropriate scope or investigation, lack of available quality information and data, non-inclusion of cumulative and long-term impacts which may be unknown.

Regulating for outcomes would necessitate a thorough understanding of causes and effects, as well as costs of achieving those outcomes, and a willingness to impose penalties if outcomes are not achieved.

The precautionary principal should be applied where medium and long term impacts are not clear or unknown. For example, climate change impacts of increasing temperatures or changed fire regimes, or newly evolving situation with possible detrimental impact on planned outcomes.

#### 4.B Better environment and heritage outcomes

The objects of the EPBC Act reflect an ambition to unite biodiversity and heritage conservation with sustainable development principles, and to promote the conservation and sustainable use of natural resources. While states and territories have primary responsibility for land use planning and management of environmental matters within their borders, the Commonwealth has responsibility for matters of national or international significance, as well as its own actions and its own land.

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 current Act is limited in its ability to ensure biodiversity or heritage protection because it is widely discretionary in matters of:

- Threshold-setting
- Ministerial decisions to approve significant impacts with conditions
- Pace of listing protected areas and threatened species, national heritage places
- Prioritisation of resources
- Ministerial changes, Government not held to account for poor implementation

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 environmental standards with the Commonwealth taking a monitoring and assurance role? Does the information exist to do this?

The Act could be supported with, mandatory monitoring requirements, mandatory referrals for local approval that affect EPBC matters to federal agencies, and enforcement of compliance with conditions of approval of EPBC Act decisions.

#### 11. How can environmental protection and environmental restoration be best achieved together?

- Should the EPBC Act have a greater focus on restoration?
- Should the Act include incentives for proactive environmental protection?
- How will we know if we're successful?
- How should Indigenous land management practices be incorporated?

SSROC supports an increased focus on environmental restoration within the EPBC Act, which would assist with recovery plans for ecosystems that are significantly impacted by long term stresses such as climate change as well as shocks such as the 2019/20 bushfires across many areas of Australia. However greater focus on restoration should not result in less focus on protection. Protection of existing areas should always be the priority of biodiversity legislation.

The EPBC Act provides for enforcement mechanisms for managing suspected or identified instances of non-compliance and for reviewing the compliance of referred projects. Development of Key Threatening Processes are limited to listed threatened species and ecological communities. Incentivising proactive environmental protection would balance the penalties, by establishing and rewarding practices that are encouraged as well as the existing provisions for discouraging undesirable practices.

Any measurement of broader success of environmental protection and restoration is scarce and poorly reported within the Department of Environment and Energy Annual Reports. Reporting is limited to the number of recovery plans developed only – not their effectiveness over time. As noted in our response to question 8, success should be measured in terms of outcomes achieved, which necessitates having a reliable baseline against which to compare proactive protection or restoration measures.

Practical mechanisms to incorporate Indigenous land management practices, (beyond recognised areas Indigenous heritage) should be developed. For example, following the 2019/20 bushfires, we are already seeing a welcome increase in the recognition of the value of Indigenous fire management practices. These practices should be systematically incorporated into our suite of intervention options, and their effectiveness measured and monitored, including relative to all dimensions of ESD.

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?

No comment

#### 4.C More efficient and effective regulation and administration

Improving the efficiency and effectiveness of regulation through changes to the Act or its implementation can deliver benefit to both the economy and environment. This may reduce the regulatory costs to businesses and the broader community. It may also improve environmental outcomes, particularly if changes facilitate greater compliance with the law or improve the focus of regulation toward areas of the greatest environmental benefit.

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?

No comment

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?

To avoid duplication of responsibilities, a mandatory referral system may be more effective rather than devolving Federal responsibilities to state level.

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?

SSROC considers that low-risk projects should not receive automatic approval, as there is still the potential for a low-risk project to have significant impact, through cumulative impacts and/or other stressors in the environment. Additionally we recommend that all data from EIAs should be made publicly available.

16. Should the Commonwealth's regulatory role under the EPBC Act focus on habitat management at a landscape-scale rather than species-specific protections?

SSROC does not consider that the two approaches of landscape-scale habitat management and species-specific protections are valid alternatives to each other. Species-specific protections are essential for threatened species. Landscape-scale habitat management is needed to slow and to stop the ever-increasing rate of species becoming threatened and eventually extinct. The EPBC Act should apply both if it is to be effective. Applying the principles of ESD would facilitate landscape-scale habitat management, by allowing barriers – such as the well-being of communities directly affected – to be taken into account in assessing proposed changes.

This would facilitate finding a solution to the conflicts that arise when conservation impinges on human society and economic growth (such as the current debate over Murray Darling basin water allocations), rather than the current narrow approach that tends to create adversarial situations where the alternatives are in stark contrast, rather than a negotiated and potentially more acceptable response to the range of problems.

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

No comment

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

No comment

#### 4.D Indigenous Australians' knowledge and experience

Indigenous Australians are the custodians of the oldest continuous culture in the world. Over tens of thousands of years, they have built a deep connection with Country. This connection is central to their culture, spirituality, language and wellbeing. The active management of the environment and associated cultural practices by Indigenous Australians have significantly shaped the natural environment of Australia.

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?

Recognition of Indigenous Protected Areas (IPA's) and strengthened intent to include Indigenous knowledge and practices of land management.

Practical mechanisms to incorporate Indigenous land management practices, (beyond recognised areas Indigenous heritage) should developed. For example, recognition of Indigenous fire management practices.

Above all, non-indigenous people need to learn from the indigenous people about how to engage. Historic paternalistic engagement tactics have often been unsuccessful and failed to achieve the intended outcomes: education and permitting people (any people) to devise their own solutions is an alternative.

#### 4.E Community inclusion, trust and transparency

Australia's environment is a valuable asset. Greater inclusion of Australians in the processes that protect, manage and promote the environment and heritage may help foster the best environmental outcomes for all Australians. Greater inclusion also facilitates transparency in decision making and fosters community trust in regulators and regulatory outcomes.

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?

No comment

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 priority reform would be an independent institution to administer and oversee Australia's environmental protection framework, as well as to provide advice to the Minister.

For example, a federal Environment Protection Agency (EPA) would ensure that decisions affecting the environment were made in a more informed and transparent manner and allow a shift towards a more bipartisan approach to Australia's environmental management and conservation framework.

Suggestions for consideration during the review are for the development of a new Act to better hold the Commonwealth responsible for duties. This should include specific statutory obligations and actions including:

- Ensuring mandatory recovery plans and threat abatement plans are established, maintained, effectively implemented, monitored and kept up to date
- Enforceable duties on decision makers to use their powers to achieve the Act's objectives
- Clear criteria and public accountability for key stages of decision making
- A new National Sustainability Commission to -
  - coordinate National plans and actions
  - set national environmental standards
  - provide high level oversight
  - give strategic advice to ministers, agencies and community
- A new national EPA to -
  - Monitor cumulative impacts at the national level
  - Provide information and analysis to the National Sustainability Commission
  - Liaise with state agencies
  - Assess, approve or refuse projects
  - Monitor compliance
  - Take enforcement action
  - Better resource agencies, conservation programs and natural resource management

#### 4.F Innovative approaches

The EPBC Act was created 20 years ago and takes a traditional regulatory approach – imposing rules on individuals and business through legislation to achieve environmental protection. The Act was not designed to consider or promote alternatives, such as ecosystem services markets, alternative financing arrangements, co- or self-regulation, environmental accounting and information and education-based approaches, noting there are likely limitations on the potential for these alternatives.

The review provides an opportunity to consider increasing the role of such innovative approaches.

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?

No comment

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

No comment

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

No comment

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 risks with the Commonwealth developing a public investment vehicle to coordinate EPBC Act offset funds?

No comment

## 5 Principles to guide future reform

It is important that future reforms are guided by a set of principles. These principles should reflect what is important to Australians, and our goals for national environmental law.

Our current principles

- i. 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.
- ii. Making decisions simpler: Achieving efficiency and certainty in decision making, including by reducing unnecessary regulatory burdens for Australians, businesses and governments.
- iii. Indigenous knowledge and experience: Ensuring the role of Indigenous Australians' knowledge and experience in managing Australia's environment and heritage.
- iv. Improving inclusion, trust and transparency: Improving inclusion, trust and transparency through better access to information and decision making, and improved governance and accountability arrangements.
- v. Supporting partnerships and economic opportunity: Support partnerships to deliver for the environment, supporting investment and creating new jobs.
- vi. Integrating planning: Streamlining and integrating planning to support ecologically sustainable development.

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

No comment

## 6 General questions

In addition to the specific questions asked earlier, the review is seeking to answer the following broad questions (located at the end of the discussion paper).

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

The EPBC Act is not delivering what was intended. In its current form, it has not resulted in reducing our dismal rate of faunal extinction and habitat loss. The current complexity of the legislation, limitations to what is included in the objects and matters of national environmental significance and disregard for cumulative impacts, all hamper the likelihood of achieving meaningful and lasting environmental outcomes.

28. How well is the EPBC Act being administered?

Poor performance in enforcement of regulations, as well as monitoring and reporting of outcomes makes it extremely difficult to have confidence in the current processes.

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

Consideration of the impacts of future climate change should be a major element for the review together with application of technology improvements for better monitoring into the future.

30. What are the priority areas for reform?

A priority reform would be an independent institution to administer and oversee Australia's environmental protection framework, as well as to provide advice to the Minister.

31. What changes are needed to the EPBC Act? Why?

Suggestions for consideration during the review are for the development of a new Act to better hold the Commonwealth responsible for duties. This should include specific statutory obligations and actions including:

- Ensuring mandatory recovery plans and threat abatement plans are established, maintained, effectively implemented, monitored and kept up to date
- Enforceable duties on decision makers to use their powers to achieve the Act's objectives
- Clear criteria and public accountability for key stages of decision making
- A new National Sustainability Commission to -
  - coordinate National plans and actions
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  - give strategic advice to ministers, agencies and community
- A new national EPA to -
  - Monitor cumulative impacts at the national level
  - Provide information and analysis to the National Sustainability Commission
  - Liaise with state agencies
  - Assess, approve or refuse projects
  - Monitor compliance
  - Take enforcement action
  - Better resource agencies, conservation programs and natural resource management

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

**Recognition of local government and its role in contributing to the protection of matters of national environmental significance through:**

- Acknowledgement that local government plays an important role in protecting and managing matters of national environmental significance
- Support for local government strategic biodiversity planning programs at the local level for matters of national environmental significance
- Identifying and clarifying a role for local government in relation to the enforcement of the EPBC Act.

**7 Add an attachment**

None.

## 8 Publication permission

Please note that in accordance with the review's [submission guidelines \(link\)](#) that in the case that a person or organisation making a submission chooses to remain anonymous, the review may place less weight on their submission.

33. Do you give permission for your submission to be published?

(Required)

Yes - with my name and/or organisation