

17 April 2020

EPBC Act Review

Greening Australia and our relevance to the EPBC Act

Greening Australia's Vision: Healthy, productive landscapes where people and nature thrive

Greening Australia is an environmental enterprise that thinks big to tackle the challenges facing Australia's unique and diverse landscapes in ways that work for communities, economies and nature.

Greening Australia started conserving and restoring Australia's landscapes in 1982. At Greening Australia, we work to solve bold and complex environmental problems through conservation on a massive scale, with programs and projects covering millions of hectares of land and protecting hundreds of native species.

Greening Australia aims to bring life to landscapes and restore balance to the natural environment in significant areas across Australia, from the warm waters of the Great Barrier Reef to the cool island ark of Tasmania.

Greening Australia undertakes ecological restoration works aimed at improving biodiversity, sequestering carbon and other ecosystem services through native plant revegetation that is aimed at enhancing Threatened Ecological Communities and/or providing habitat for native plants and animals, many of which are listed under the EPBC Act.

This submission acknowledges and includes information drawn from Victoria's Trust for Nature draft EPBC submission, the Hawke Review and The Humane Society International's report "The Next Generation".

More than 90 million hectares of wildlife habitat has been lost since European settlement (DoEE 2018¹) and this habitat loss/clearing affects the greatest number of threatened species for all states and territories, except the Northern Territory (Cresswell and Murphy 2017²).

The 2016 State of the Environment Report outlined six key barriers to effective national management of the environment. None of these barriers can be overcome without national leadership. To increase the effectiveness of the Act, revisions to the EPBC Act will need to address these challenges:

- *lack of an overarching national policy that establishes a clear vision for the protection and sustainable management of Australia's environment;*

¹ Department of the Environment and Energy. National Vegetation Information System: Major Vegetation Groups, Version 5.0. (2018)

² Cresswell, I. & Murphy, H. *Australia state of the environment 2016: biodiversity, independent report to the Australian Government Minister for the Environment and Energy.* (Australian Government Department of the Environment and Energy, 2017)

- *poor collaboration and coordination of policies, decisions and management arrangements across sectors and between managers (public and private)*
- *a lack of follow-through from policy to action*
- *inadequacy of data and long-term monitoring, which interferes with our ability to apply effective policy and management and establish adequate early warning of threats.*
- *insufficient resources for environmental management and restoration.*
- *inadequate understanding and capacity to identify and measure cumulative impacts, which reduces the potential for coordinated approaches to their management.*

1. Summary of recommendations

Like many other experts, stakeholders and individuals, Greening Australia wants to see a healthy, functional and resilient Australian environment and legislation that is as effective and efficient and that users can understand and engage with. In line with other expert contributors to this process, notably the Australian Panel of Experts on Environmental Law and the Places You Love Alliance, Greening Australia supports:

- An approach that elevates environmental protection and biodiversity conservation as the primary aim of the Act.
- Duties on decision makers to exercise their powers to achieve the Act's aims.
- A dual focus on protection and recovery of threatened species and ecological communities.
- A system (eg National Ecosystems Assessment) to holistically identify important natural assets, their status and the 'ecosystem services' that nature provides to human society.
- A national environmental data and monitoring program that links federal, state and territory data on biodiversity, strategic planning and environmental impact assessment.

More specifically, in relation to the current statutory framework, Greening Australia makes the following recommendations:

- The large-scale clearing of eastern Australia continues to result in species decline and not only needs to be stopped but needs to be reversed. Incentives for landholders to undertake restoration and funding that recognizes agricultural co-benefits generated by biodiverse tree planting should be put in place.
- A mechanism to reverse years of habitat loss by incentivising native habitat restoration in heavily cleared landscapes through financial incentives such as funding for carbon plantings that also generate co-benefits and a concessional finance approach similar to that available through the CEFC;
- Support for regenerative agriculture and related initiatives (eg biodiversity stewardship, trees on farms, multi-purpose biodiverse plantings) to integrate native habitat and rebuild natural capital in productive agricultural landscapes;
- Introduce a mechanism to designate areas listed as MNES as part of Australia's National Reserve System;
- Mandate and resource the production of recovery plans for listed threatened species along with budget allocated for their implementation, including monitoring and evaluation;
- Link formal statutory reporting on environmental standards (e.g. State of the Environment) to a process for expanding triggers for project-based assessments.

To support an evolved environmental law framework, Greening Australia recommends developing a range of financial instruments including:

- The establishment of new environmental markets and innovative finance structures. This includes the continued refinement of the carbon market, the development and roll out of water quality markets.
- The establishment of a new government backed innovative financing mechanism to mobilise large-scale private sector investment in sustainable agriculture and on-farm biodiversity, and catalyse the development of a self-sustaining market through which landholders will be incentivised and rewarded through market returns for stewardship of natural assets and the environment.
- This financing mechanism would focus on development and deployment of financial products and market structures that address the barriers currently inhibiting investment. These include, but are not limited to, providing concessional finance; investing with a capped return; building investor confidence by taking a first loss position, de-risking private investment; and attracting other co-investors by allowing those investors access to higher up-side on their investment.

Specific Questions and Responses

Greening Australia has responded to selected questions included in the discussion document.

Q1. 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?

Greening Australia supports the Hawke Review recommendations that the Environment Protection and Biodiversity Conservation Act 1999 be repealed and replaced with a new Act, the *Australian Environment Act*, which will:

- (1) be restructured and drafted to modernise, clarify, simplify and streamline both language and process;
- (2) reduce duplication of processes; and
- (3) increase the focus on strategic approaches to environmental management.

Q2. How could the principle of ecologically sustainable development (ESD) be better reflected in the EPBC Act?

For example, could the consideration of environmental, social & economic factors, which are core components of ESD, be achieved through greater inclusion of cost benefit analysis in decision making?

In line with the recommendations made under the Hawke review the Act should:

- (1) confirm ecologically sustainable development (ESD) principles as the overarching principles underpinning decision making under the Act;
- (2) emphasise that environmental considerations are to be considered first when making decisions under the Act – ‘decision making should integrate both long term and short term environmental, social, economic and equitable considerations effectively’; and
- (3) emphasise ESD principle (d) – ‘the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision making’.

Q5. Which elements of the EPBC Act should be priorities for reform? For example, should future reforms focus on assessment & approval processes or on biodiversity conservation? Should the Act have proactive mechanisms to enable landholders to protect matters of national environmental significance & biodiversity, removing the need for regulation in the right circumstances?

There should be a strengthening of protection for Threatened Species. Specifically, this should include the mandating and resourcing the production of recovery plans for listed threatened species along with budget allocated for their implementation, including monitoring and evaluation to gauge effectiveness.

There should be a proactive mechanism to reverse years of habitat loss by incentivising native habitat restoration in heavily cleared landscapes through financial incentives such as funding for carbon plantings that also generate co-benefits and a concessional finance approach similar to that available through the CEFC.

The large-scale clearing of eastern Australia continues to result in species decline and not only needs to be stopped but needs to be reversed. Incentives for landholders to undertake restoration and funding that recognizes agricultural co-benefits generated by biodiverse tree planting should be put in place. There should be support for regenerative agriculture and related initiatives (eg biodiversity stewardship, trees on farms, multi-purpose biodiverse plantings) to integrate native habitat and rebuild natural capital in productive agricultural landscapes.

Q7. What additional future trends or supporting evidence should be drawn on to inform the review?

Trends in developing markets for carbon, biodiversity and water and the opportunities to enhance those markets and the opportunities they create to support the aims of the EPBC Act. The establishment of new environmental markets and innovative finance structures should be used to support the aims of the Act. This includes the continued refinement of the carbon market, the development and roll out of water quality markets.

Supporting evidence should be drawn through a link to formal statutory reporting on environmental standards (e.g. State of the Environment) to a process for expanding triggers for project-based assessments.

Q10. 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?*

Yes, there should be a greater role for national environmental standards and there are existing standards that could be applied. The national standards for the practice of ecological restoration (SER) is an example particularly relevant for biodiversity conservation

in addition to those listed. A key requirement of any standard to be applied is that it includes: implementation, monitoring, evaluation of outcomes and subsequent actions based on the achievement or otherwise of those outcomes.

Q11. How can environmental protection & 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?*

The large-scale clearing of eastern Australia continues to result in species decline and not only needs to be stopped but needs to be reversed. Incentives for landholders to undertake restoration and funding that recognizes agricultural co-benefits generated by biodiverse tree planting should be put in place.

There is a need for a national landscape restoration plan which is appropriately resourced.

Restoration should be considered for specific outcomes (including carbon, offsetting, species recovery, integration into productive systems, fire resilience) as well as the EPBC Act providing flexibility to account for new markets or restoration funding opportunities. This should include a review of rules in relation to 'additionality' to support access to multiple income streams where multiple benefits are being produced by the same project (eg. carbon, water quality, biodiversity offsets).

Q16. Should the Commonwealth's regulatory role under the EPBC Act focus on habitat management at a landscape-scale rather than species-specific protections?

A landscape scale approach allows a broader perspective to be taken to managing the landscape. Greening Australia has built landscape scale management methodologies to rigorously include the requirements of endangered species for example. We would be pleased to discuss these approaches with the Australian Government if required as the EPBC Act is redrafted.

There should be a trigger to assess significant land-clearing proposals, and to prohibit unacceptable impacts on critical habitat and High Conservation Value Vegetation and Key Biodiversity Areas. A comprehensive federal land-clearing trigger would ensure that Commonwealth efforts to preserve national biodiversity, maximise bio-sequestration and achieve landscape-scale conservation are not undermined by a constantly changing patchwork of state land-clearing laws and policies. This is particularly important given habitat loss has been recognised as the primary driver of species decline in Australia, with some 7.7 million hectares of endangered species habitat having been destroyed since the Act was established.³ Assessments and approvals of clearing should meet a clear 'conserve or enhance' standard.

³ MS Ward et al, Lots of loss with little scrutiny: The attrition of habitat critical for threatened species in Australia, 2019

Q23 *Should the Commonwealth establish new environmental markets? Should the Commonwealth implement a trust fund for environmental outcomes*

Greening Australia strongly supports the establishment of new environmental markets and innovative finance structures. This includes the continued refinement of the carbon market, the development and roll out of water quality markets, such as the one under development for the Great Barrier Reef and the standardization of biodiversity markets.

Greening Australia supports the establishment of a new government backed innovative financing mechanism to mobilise large-scale private sector investment in sustainable agriculture and on-farm biodiversity, and catalyse the development of a self-sustaining market through which landholders will be incentivised and rewarded through market returns for stewardship of natural assets and the environment. This mechanism would allow early adopters to demonstrate their sustainable land management practices to the market (which is increasingly demanding clean and green products) to gain market advantage.

This financing mechanism would focus on development and deployment of financial products and market structures that address the barriers currently inhibiting investment. These include, but are not limited to, providing concessional finance; investing with a capped return; building investor confidence by taking a first loss position, de-risking private investment; and attracting other co-investors by allowing those investors access to higher up-side on their investment.

This approach has already been tested and proven successful via the Australian Renewable Energy Agency (ARENA) and the Clean Energy Finance Corporation (CEFC). The CEFC works alongside Government regulation and policy to support the clean energy transition through research and development grant funding for the development of new solutions, and concessional and flexible financing to bridge the gap in taking these solutions to full commercialisation. The same funding void which is met through the ARENA and CEFC models, exists within environmental finance. The provisions of even more flexible financing terms than those offered by the CEFC would not only stimulate more investment but also help develop a self-sustaining market.

Another opportunity that is under development in Queensland is the Reef Water Quality market which has the potential to provide improvements in land quality, water quality and to generate long-term income for farmers who take part in the market by reducing polluting activities and repairing and restoring damaged land. This type of approach could also be an important mechanism to grow a sustainable agriculture sector.

Thank you for the opportunity to provide this submission for any questions or clarifications on this submission please contact Greening Australia.

Yours sincerely

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