

## Response ID ANON-K57V-XYA8-Q

Submitted to **EPBC Act Review: Make a submission on the discussion paper**

Submitted on 2020-04-17 14:27:48

### 1. About you

#### 1 What is your name?

**First name:**

Heather

**Last name:**

Kenway

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

Individual

**Organisation name (if applicable):**

**What is the scope of your organisation? :**

#### 3 What sector best represents you or your organisation?

**What sector best represents your organisation? :**

Environment

**If Other, please specify::**

#### 4 Which State or Territory are you from?

**Which State or Territory are you from?:**

Australian Capital Territory

#### 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, Matters of National Environmental Significance, Cumulative impacts, Climate change, Decision making, Public participation in decision making, Biodiversity, Conservation

**Other:**

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

Yes

**If Yes, please enter your email :**

heather.kenway@gmail.com

### 2. About the EPBC Act

**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?**

**have argued that past changes to the EPBC Act of adding 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?:**

At some times the Commonwealth leads on active environmental protection, at others the States do a better job of it. The Commonwealth has no problem espousing national industry policies, and finding ways of encouraging the States along routes it wants. There is no reason why it cannot do so on environmental matters. In fact it is essential that it does, because Australia's future is closely bound to the international policies and measures that may be taken on the big international issues, and it can use its advocacy for good or ill for the planet: not least climate change, planetary boundaries that combine to stabilise the planet's physical stability, biodiversity that also is a prerequisite for that stability.

In past years the Commonwealth has used international commitments to pull the nation (and the State Governments) towards better national environmental outcomes. It is a question of political foresightedness and will, and I think more of it would be desirable at this stage. In whatever form it takes an EPBC Act can't provide that impetus.

**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?**

**How could the principle of Ecologically Sustainable Development (ESD) be better reflected in the EPBC Act?:**

I think the principle of ecologically sustainable development is a nonsense, rather like the emperor's clothes. It has not served Australia's environment well.

Cost benefit analysis is valuable in some (mainly economic) circumstances when the data is sound and plentiful, and the analysis well devised. But no one has yet been able to do a good job of applying it to environmental values. That is where we need good science, and an understanding of risk at the planetary as well as the national level.

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

**Should the objects of the EPBC Act be more specific?:**

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

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

**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?**

**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?:**

**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?**

**What high level concerns should the review focus on? For example, should there be greater focus on better guidance on 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?:**

**3. What the future looks like**

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

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

Measures to reconcile Commonwealth/State industry and environment policies;

The policy base for Australia's involvement in global discussions to address climate and biodiversity crises;

Refugee issues which will become more urgent as climate change causes population dispersals on an even greater scale, and with additional challenges for environmental protections. Australia is not well prepared to face up to these questions humanely.

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

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

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

I'm inclined to think that environmental and heritage outcomes need a clear policy underpinning. I'm not sure that an Act can regulate them. There are other mechanisms for encouraging better environmental outcomes, including education campaigns and various inducements, as well as prohibition of certain activities.

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

**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?**

**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?:**

We need a new EPBC Act based on new policy imperatives.

In an ideal world our national governments would articulate better outcomes. In the present circumstances there doesn't seem to be a clear articulation.

Oversight will come informally whether it is wanted by governments or not, through public, NGO and no doubt industry pressures, and hopefully formally with a much greater openness to research and analysis to improve understanding, and constant reassessment. It is possible to establish either temporary or more permanent bodies to assess whether the state of the environment improves.

#### **10 Should there be a greater role for national environmental standards in achieving the outcomes the EPBC Act seeks to achieve?**

##### **Should there be a greater role for national environmental standards in achieving the outcomes the EPBC Act aims to deliver?:**

In readily measurable aspects it can be helpful/desirable to set standards. Sometimes it is more important to focus more on publicising what are better environmental outcomes and provide the incentives/disincentives to encourage change.

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

##### **How can environmental protection and environmental restoration be best achieved together?:**

Yes, there needs to be a greater focus on restoration, also on providing for impacts of climate change and the varying volumes of species under different climatic conditions. For example there are already clear signs of plant species shifts, yet having fixed boundaries between protected areas and allowable industry activity does not allow for that. Industries heavily dependent on use of natural resources and selling into commodity markets want certainty of access that often can't accommodate the needs of the natural world.

One example, in the SE forests of NSW near Bermagui there is a very small colony of koalas - maybe only 50 or 60 koalas, very vulnerable to extinction, and very fortunate to survive the recent bushfires. Young males need to establish new colonies at up to 50 k away. But that takes them into forest that the Forestry Corporation is allowed to log and thus destroy habitat they need, and so farFC has been unresponsive to calls to protect the connecting compartments.

This is one reason why I think it is necessary to have much broader decisions about management of large areas, or there is endless nit-picking dispute over what is allowable or not.

#### **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? How can the EPBC Act adequately represent Indigenous culturally important places? Should protection and management be place-based instead of values based?:**

### **8. Publication permission**

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

Yes - with my name and/or organisation (if included)