

Senate Environment and Communications Legislation Committee  
PO Box 6100 Parliament House  
CANBERRA ACT 2600  
May 28, 2011

**Senate inquiry on Environment Protection and Biodiversity Conservation Amendment  
(Bioregional Plans) Bill 2011**

**Supplementary Submission**

Dear Sir/Madam

The Pew Environment Group welcomes the opportunity to provide a supplementary submission to the Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011, as amended by Senator Colbeck. This follows our submission to the original Bill (March 23, 2011) which was designed to disallow bioregional plans and our presentation to the public hearing on May 13, 2011 to the Senate Environment and Communications Legislation Committee.

The amendment to the Bill is designed to make the declaration of certain Commonwealth marine reserves disallowable in both Houses of Parliament. This applies to reserves which are within a Commonwealth marine area or a Commonwealth marine area *and* an area of Commonwealth or Territory land. The amendment specifically does not cover reserves on land only.

The Pew Environment Group does not support the original Bill or the amended Bill. This supplementary submission focuses on the amendment. Based on a statement made by Senator Colbeck at the public hearing, it appears that the amendment was made because of a discrepancy between the intent of the Bill versus its reality. The quotation below is from p.56 of the Proof Committee Hansard, May 13:

**Senator Colbeck:** "In the initial drafting of the bill there were certain instructions given to officials of the Senate to provide a piece of legislation to have an effect which was intended to be around the declaration of the lines on maps, if you want to put it in that term—the declaration of the zones. The terminology that was used and given to the drafters was given in respect of the term 'bioregional plans'. That is why the process that I have been through in advising the committee and having the information put on the website in relation to the amendment was done in that time and process because it was intended to be directly related to the declaration of the zones."

The amendment rectifies the initial drafting error, however, bioregional marine plans still remain subject to the disallowance process in the amended Bill. Disallowance is an inappropriate parliamentary tool to use against a bioregional plan, as the plan is an information document that does not have a legislative character. It is designed to guide the Minister with decision-making under the Act.

The disallowance of marine reserves introduces a large measure of uncertainty into the marine planning process. Marine reserves are subjective to extensive planning and community consultation. The government has allowed for 90 days public consultation for draft bioregional plans and a further 60 days of public consultation for draft marine reserve declarations. Five months of public consultation will provide more than adequate opportunity for the public to have a say. Combined with targeted stakeholder consultation outside these formal processes, the community and interested stakeholders will have plenty of opportunity to influence the final outcome of marine reserves.

The key issue raised at the public hearing by those who support the amended Bill was public consultation. This is not addressed by a Parliamentary disallowance process.

Dr Allan Hawke was engaged by the federal government to undertake an independent review of the *Environment Protection and Biodiversity Conservation Act 1999*. After extensive consultation over the review, Dr Hawke's report did not find a need for disallowance of bioregional plans or marine reserves, nor did it make recommendations to this effect.

Contrary to the statement in the Explanatory Memorandum that there is no financial impact of the Bill, the Pew Environment Group believes there will be a cost to the public purse. This arises from the need to restart the process with a revised marine reserve proposal and a further round of public consultation before a new marine reserve can be declared.

For reasons due to a satisfactory public consultation process already underway and an interest in avoiding unnecessary uncertainty, cost and delay – an interest shared by many in the commercial fishing industry – the Pew Environment Group does not support the *Environment Protection and Biodiversity Conservation Amendment (Bioregional Plans) Bill 2011*. We urge the Committee to take these points into account when finalizing its report to Parliament.

Yours sincerely

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