



Victorian National Parks Association

Submission to the Senate Inquiry into: streamlining environmental regulation, 'green tape', and one stop shops

1. Jurisdictional arrangements, regulatory requirements and the potential for deregulation

Considering that the Federal Government has a mandate to hand its powers of assessment and approval under the EPBC Act to state governments, providing a one-stop shop approach for development applications, we are strongly stating that in our experience the Victorian State Government is completely unsuitable for this purpose and separate to this, the Federal Government is the appropriate level to assess matters of National Interest.

We know from long experience that state governments do not assess development proposals with the national interest in mind.

The need for national intervention on cattle grazing in the Alpine National Park is a clear example of this. This has proven to be the first instalment in a list of actions that are chipping away at core environmental protection controls in Victoria.

Following this the state government threatened to remove the protection of threatened species from logging by changing the key regulatory instrument, the Code of Practice for Timber Production, to allow logging areas to be exempted from state threatened species laws.

A joint process to assess threatened species and communities that will be affected by the 2009 expansion of Melbourne's urban growth boundary under the EPBC Act, resulted in the state government proposing measures for threatened species and communities that will see local extinctions of threatened species such as the Growling Grass Frog and Southern Brown Bandicoot. Furthermore it will result in the clearing of 4,500 hectares of Critically Endangered ecological communities. This process has also seen the state government ignore the requirements of all of its own policies (refer to Attachment 1 for more details).

The patchy role of state governments on the environment is both a political and long-term institutional problem. A recent report by the Environment Defenders Office in Victoria on the key threatened species legislation the Flora and Fauna Guarantee Act illustrates this point.

The report finds that Action Statements, the key tool used to outline what needs to be done to ensure species survive, have still not been prepared for 374 of the 675 species, communities and processes listed under the Flora and Fauna Guarantee Act, despite the clear legal obligation to do so. In the past year, only one draft statement has been released.

The so called one-stop shop approach is flawed, because State governments have very different and often vested interests. For example they are often (or their agencies or state owned enterprisers) are the major developers – state government build roads, freeways, water treatment plants, ports etc. In 2012-2013, in Victoria, 44% of all referrals under national environmental laws were by State government agencies or state government owned enterprises. This represents a serious conflict of interest –of “a fox in the hen house” proportions.

Handing over federal environmental regulation to the states is a dangerous move, and a backward step

The VNPA advocate that what is actually needed is a strengthening of our national environmental laws, and the arrangements between the states and the Commonwealth, on these fundamental governance issues rather than any consideration of weakening or reducing regulatory requirements for business’ sake.

2. The balance between regulatory burdens and environmental benefits

We have not seen any evidence that suggests that regulatory burdens can be reduced whilst maintaining or increasing environmental outcomes. We caution against removing or weakening regulations under the guise of also improving environmental benefits, as there has been no evidence presented of how environmental outcomes will be improved or even maintained.

Furthermore, we know that matters of national environmental significance provide value on many levels. One example is the retention of native vegetation in the landscape (represented at the national level by EPBC listed ecological communities). Here is a snapshot from 2002 that quantified some of the values that native vegetation provides. Prior to the removal of any regulation around environmental controls, a risk assessment should be undertaken to identify what the likely cumulative impacts of the change will be and what will be lost.

Collateral benefit	Estimate of value (2002)
Dryland salinity	\$110 per ha pa
Soil erosion	\$10 per ha pa
Carbon sink	\$1,400 per ha of bush
Clean water	\$230m pa
River salinity	\$46m pa
Water regulation	Road damage - \$45m pa
Pollination	\$1b pa
Tourism	\$6.6b pa total
River recreation	\$259,200 per 10 km river
Landscape aesthetics	\$226,800 per 10,000 ha

Source: Possingham et. al. 2002

The VNPA insists that prior to any reduction or removal of laws that protect our environment, that credible data and evidence be provided to illustrate where such approaches have been successful in the past.

Furthermore, that prior to any regulatory changes a risk assessment be undertaken to identify what the likely cumulative impacts of the change will be and what will be lost.

3. Areas for improved efficiency and effectiveness of the regulatory framework

The VNPA cautions against relying upon State Government to deliver future services to meet the requirements of the EPBC Act, 1999.

In Victoria the State Government has a very poor record of upholding their own environmental responsibilities and we are not convinced that they would uphold the Federal Government's legal obligations.

We have observed that during the Melbourne Strategic Assessment Process, a State-Federal Government partnership process under the EPBC Act, 1999 that the State Government's decision-making focussed almost solely on Matters of National Environmental Significance largely disregarding their own State laws and policy. This sets a very poor precedent for responsible State Government process. More details regarding our response to this process are provided in *Attachment 1 – Environment Groups Submission on the Biodiversity Conservation Strategy, Sub-Regional Species Strategies for the Growling Grass Frog and Golden Sun Moth and the proposed development in the West, North-West and North Growth Corridors* to this submission.

A recent example of where the Victorian government has tried to cut 'green tape' by introducing the new Victorian Native Vegetation Permitted Clearing Regulations already appear to be increasing confusion and 'green tape'. If this is also an example of how the Victorian government would approach dealing with national matters of environmental regulation we would have a lot to be very concerned about!

- A key focus of the new native vegetation regulations was the removal of the need for ecological assessments for the majority of applications, calculated to save the relatively small sum of \$3million per annum. The result of this change now means that applicants will now be left to largely fend for themselves with only underfunded and stretched local government staff to support them, the costs of this to both the applicants and local government have not been publicly released.
- Another feature of the new regulations is a complete reliance on modeled data and a black box decision-making process. The modeled data, whilst produced using high-level technology is not fit for purpose as it is based on poor input data and has been put to uses that it was never intended for. The resulting datasets leave both vulnerable elements of the environment and landholders susceptible to poor outcomes. We know this because experts have provided hundreds of examples of where the mapping has it wrong.
- In another attempt to reduce green tape, DEPI is trying to automate the creation of reports for permit applications. They have not only under-resourced themselves but they haven't based their process on reality and are constantly running into problems in trying to apply their simplistic approach in the real world. This has led to delays of up to two weeks and more in trying to deliver simple reports to the public.

- Finally, the state government's focus on solely its own jurisdiction has left both local government and Federal Government requirements for clearing permits back in the hands of the applicant to deal with. Ensuring the applicant met these requirements is something that the environmental assessment would have formerly covered.

Refer to Attachment 2 for further details provided by VNPA Submission to the State Government's consultation paper: Review of Victoria's native vegetation permitted clearing regulations

In response, our suggestions for ways to improve the efficiency and effectiveness of the new permitted clearing regulations, are:

- reinstating ecological assessments to ensure that local government won't have double the landowner contact time and that landowners will have support to meet all of their environmental obligations
- removing the requirement to rely on DEPI's flawed modeled datasets
- removing the reliance on DEPI to produce reports for applications (up to two week waiting times have been experienced)

In addition to all this, we need an independent Federal Government to act to ensure that national interests are upheld. Furthermore, our State laws and protocols are not strong enough to ensure that there is any real incentive for landowners to comply with them. We have greatly benefitted from a separate entity with stronger powers for compliance and enforcement being active in Victoria. There are many examples of where the Federal Government successfully prosecuted where state and local governments were unable or unwilling to do so. This is a very important element of retaining environmental regulatory power at the National level.

Instead of handing regulatory powers for the EPBC Act to the State government, we would advocate for any future one-stop shops to remain solely within the jurisdiction of the Federal Government.

Furthermore, we see that there could be efficiencies created if some of these Federal Government staff were stationed in Victoria to be able to work more closely with both State and local government to ensure that the EPBC Act is being delivered more efficiently.

4. Legislation governing environmental regulation, and the potential for deregulation

The EPBC Act was independently reviewed after ten years of operation the results of which were released in the Hawke Review (October, 2009). This resulted in 71 Recommendations that included suggestions for improved efficiency, but these have largely been ignored in the current debate.