

Committee Secretary  
Senate Standing Committee on Environment, Communications and the Arts Department of the  
Senate

Dear Sir

I hope the Committee will refer to Discussion Paper No 81 issued in 2005 by The Australia Institute and entitled "EPBC Act // A Five Year Assessment" - by Andrew Macintosh and Debra Wilkinson - the summary of which includes the following statements:

"In almost all areas, the regime [ie the environmental assessment and approval (EAA) procedure under the provisions of the Act in question] has failed to produce any noticeable improvements in environmental outcomes. The activities that pose the greatest threat to the Act's 'matters of national environmental significance' are rarely being referred to the Minister and, when they are, the Minister is not taking adequate steps to ensure appropriate conservation results. In five years, the EAA provisions have been responsible for stopping only two activities out of potentially thousands and the conditions that have been imposed on developments under the regime have largely been ineffectual, unenforceable or a mirror of those already imposed under other processes."

"On the basis of the available evidence, it is hard to describe the EAA regime as anything other than a waste of time and money. Industry has been forced to shoulder large compliance costs, and somewhere between \$55 million and \$150 million of taxpayer funds have been spent on the regime. The environmental return on this investment has been negligible. While governments legitimately regulate industry in pursuit of social and environmental objectives, they should ensure society receives value for money. In this case, since the EAA regime commenced, the condition of Australia's natural and cultural heritage has continued to decline and the EAA provisions have not made a noticeable contribution to stopping or reversing this trend."

The weakness of the Act and the possibilities for turning it to purposes diametrically opposite to what was ostensibly intended were comprehensively demonstrated by former Minister Campbell, who attempted to use it to prevent the prevention of cattle grazing in the Victorian Alps, and subsequently to delay the construction of a wind farm on the ludicrous grounds that it would present a threat to a bird which had not been seen within 100 km of the site in decades. (And I write this as a keen bird observer).

In my view, Campbell should have been charged with contempt of the Parliament, or something to that effect, for making such a mockery of the ostensible intention of one of Parliament's laws that he had sworn to uphold.

Subsequently, the Blue Wedges Coalition failed to gain under the EPBC Act some independent, assertive Commonwealth action to prevent the vandalistic lunacy - in the absence of any even remotely convincing economic case - of dredging Port Phillip Bay non-stop for two years - opening the heads in the face of impending rises in sea-level - creating tonnes of loose rocks to cannon about in strong currents in the vicinity of marine national parks full of sponges and other marine life unique to the Victorian coastline - and disturbing and re-dumping in the middle of the Bay huge quantities of toxic sludge from the bed of the Yarra which it would be illegal to dump in any normal landfill on land in Victoria.

And the opponents of the perhaps even greater lunacy of Victoria's desalination plant had a similar outcome.

All these good citizens have got nothing for their trouble apart from orders to pay costs which will bankrupt their volunteer organisations.

Heavy costs were also ordered against Senator Brown, whose defeat on appeal over impacts on endangered species in the Wielangta Forest was achieved by means of cynical amendments between hearings and despite the fact that the essential principle he argued was upheld and never really denied by the court.

There are an awful lot of us out here who are very very very angry about this mockery of our demands upon those in the corridors of power to do something about the trashing of life on earth by what Patrick White called "our reckless anti-civilisation". We can see that this is arguably the only thing that will have mattered in the end (which may well be much nearer than we think).

The EPBC Act as it stands is nothing but an instrument of Humphryesque manipulation in defence of decisions of a standard one might expect from a gang of 15-year-old boys behind the shelter shed. Or perhaps a gang of Hollowmen.

It is no wonder that some brave people lie in front of bulldozers and lock themselves to machinery. The wonder is that we do not go a lot further. Our faith in the rule of law and our national pretensions of pluralist, consultative democracy is being sorely tested.

The EPBC Act needs to be either drastically amended or summarily ended.

Colin Smith