

19 December 2008

The Secretary

The Senate Standing Committee on Environment, Communications and the Arts  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600



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SUSTAINABLE  
PENINSULA



Dear Minister,

### **Enquiry into the operation of the Environment Protection and Biodiversity Conservation Act, 1999**

The Mornington Peninsula Shire welcomes the opportunity to provide general comment on the Environment Protection and Biodiversity Act 1999. The timeline for the receipt of comments has not allowed Council to formally consider the enclosed response. Please consider the following comments as officer comments only.

The Mornington Peninsula Shire is located south of Melbourne with a population of over 135,000 occupying an area of over 730 square kilometres. The Shire has diverse natural and cultural heritage values including but not limited to Point Nepean National Park and the former Quarantine station, Western Port RAMSAR wetland and the associated migratory bird species and a number of individually threatened species including Southern Brown bandicoot and Leafy Greenhood orchid.

The Shire acknowledges past financial assistance provided by DEH in support of programs coordinated by the Shire for research and protection of locally occurring species, listed under the Act.

#### **Community engagement, awareness and participation**

As indicated in the introduction the Shire is home to a number of threatened species and wetlands of national significance listed under the provisions of the Act. Feedback from the general community indicates that in regard to significant matters listed under the EPBC Act that associated public awareness is low and which is likely to lead to reduced public participation in the administration of the EPBC Act and active community protection for these matters.

Lack of community awareness in these matters extends to applicants seeking a planning permit for a development that may impact upon a matter listed under the regulations of the Act and where the applicant is required to notify DEH. Improved processes are recommended for notification by the applicant to DEH and subsequent public notification by DEH to the community.

The potential costs of litigation for not for profit community groups who wish to participate in the administration of the Act is also regarded as a barrier to greater community participation. Opportunities should be sought to establish a funding

assistance program accessible to community groups who may wish to better engage with the processes under the Act.

The Threatened Species Scientific Committee, established under the regulations of the Act has rejected some public nominations due to perceived insufficiency or inadequateness. However the demand for high standards of information is likely to limit nominations to those in the scientific community and potentially discourage community nomination in the listing process. It is recommended that a review be conducted of guidelines for community nominations to the scientific committee.

### **Improving the Science**

Key aspects of scientific biodiversity (such as ecological processes and services) have not been translated into the protective regulations under the EPBC Act and it is recommended that the criteria by which the TSSC may assess nominations be expanded.

In common with other similar biodiversity Acts at State level, a heavy emphasis is placed by the EPBC Act on large, threatened species conservation while there is a correspondingly low level of listing of non vascular plants, micro-organisms and other forms of life that compose the majority of organisms on earth.

### **Resourcing**

The 2006 SOE measured the EPBC Act's effectiveness by the number of times the Act has been used. The Shire is aware that some in the community regard a measure the effectiveness of the Act in terms of the relatively low rate of refusal by the Minister for referred matters and alleged lack of monitoring and non compliance. The Shire recommends that giving greater effect to the powers of the Act requires provision of higher levels of resources to the Department administering the Act.

In regard to Commonwealth resourcing of development and implementation of threatened species protection plans it is recommended that provision of recurrent funding is required as opposed to current more episodic funding provision.

### **Expansion of Existing Triggers and New Listings**

The Shire understands that the EDO have suggested that existing triggers under the Act be extended to include land clearing and water extraction and this is generally supported.



## Conclusion

The 2008/09 review of the Act represents an opportunity to review the performance of the Act over the last ten years. The Shire supports the review as an opportunity to better engage the community in the administration of the Act in association with the provision of greater resources and improved integration with state and local government. Officers of the Shire would welcome the opportunity to discuss the above comments further with your department.

Yours sincerely

Alex Atkins

Director Sustainable Environment  
Mornington Peninsula Shire