

21 September 2008

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(AFTCRA Inc.)

Committee Secretary
Senate Standing Committee on Environment, Communications and the Arts
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Re: Inquiry into the operation of the *Environment Protection and Biodiversity Conservation Act 1999*

Terms of Reference

This submission is to highlight key areas that need to be assessed by the Senate Environment, Communications and Arts Committee with regard to the *Environment Protection and Biodiversity Conservation Act 1999* (the Act) particularly where species are recognised as endangered, vulnerable or rare (EVR) or where matters of National Environmental Significance (MNES) are not being protected to the full extent of this legislation. The Act will need to be amended to ensure that all threatened species and ecological communities are satisfactorily protected in the light of climate change and the current failure of the Act to adequately achieve its conservation objectives.

(2a) We would like to see the Senate Committee thoroughly assess the legislation and to scrutinise the compliance auditing process.

We recommend an amendment where a project has been recognised as a controlled action containing EVR species and/or MNES that has been given approval, with or without conditions, to make an audit of the compliance of the project compulsory within a set time frame.

We would also recommend that an audit be completed within 2 (two) years of the completion of the project to determine compliance with the Act. This audit may recognize failure of the approved mitigating strategies and allow for effective remediation before irreversible damage is experienced by a species or ecological community. Furthermore, this may completely avoid repeated use of unsuccessful and/or flawed mitigation measures.

(2b) Abolish bilateral agreements – There should be no option or approval for a State Government to assess its own project under the Act. Any preliminary assessments and Environmental Impact Statements (EIS), under the Act, should be completed by a third party or federal representative to ensure unbiased results.

Self assessment on matters relating to the Act, involving major development submissions by a State or Territory Government within Australia **must be abolished** and assessed by independent organisations **ONLY**.

Too often, Environmental Impact Statements commissioned by proponents of a major project, on behalf of a State Government, has resulted in some critical report being altered or omitted because they do not support the proponent's objectives.

Also, the Referral Process needs to be amended so that a formal assessment of the Proposed Action can be made by a Federal assessor or an independent third party to determine whether or not the project **IS** a controlled action under the Act. One particular example of failure to protect EVR species under the Act was a proposal that involved pumping water from an area that contained an endangered species that had not been confirmed in the project area at the time of the application, and was not listed on a Wildnet database search. An endangered species had been previously found to occur at the site but the data, submitted for inclusion onto the Wildnet database seven years prior to the application, had not been uploaded yet. This activity should have been classified as a Controlled Action, due to the presence of an endangered species, but there was no preliminary assessment made to confirm the presence of any EVR species by any of the staff responsible for application or the approval process.

(2c) As part of your cumulative impact assessment, we believe that **all** of the current proposals for the Mary River catchment, including Traveston Crossing Dam and the Northern Pipeline Inter-connector, should be assessed and compared against current use of water resources from the catchment. With one major project (Traveston Crossing Dam) and several smaller projects currently being proposed for the region, (which is proven by many scientists to be a very unique ecological community), it would be a major benefit to assess how well or how poorly the current legislation has worked to protect these ecosystems.

Cumulative impacts of taking water out of a particular catchment should be part of this assessment. The Murray River is a prime example of where the EPBC Act has failed to protect a river ecosystem from overuse and mismanagement.

Over allocation of a particular resource (in this case water) should also be considered in the cumulative impact assessment.

(2d) More stringent laws relating to habitat destruction and degradation must be introduced as well as the introduction and management of more thorough vertebrate pest and noxious plant species management plans.

We strongly urge the committee to assess the Act to compulsorily include world standard assessment models such as Population Viability Analysis (PVA) and Population and Habitat Viability Assessment (PHVA). If data is deficient for EVR species or MNES in a particular controlled action, approval should not even be considered until adequate data can be obtained and assessed appropriately. In

some cases, this should involve years of thorough investigation before the controlled action can proceed to the next stage of the assessment process.

In conclusion, we would like to see the following areas addressed in the inquiry –

- A thorough assessment of the Act and specific recommendations put forward to amend the Act, to better protect the threatened species and ecological communities of Australia.
- An assessment of the feasibility, and possible inclusion of, compulsory compliance auditing for all approved projects, under the Act, within two years of completion of the project to insure mitigation strategies are effective.
- Assess the ability of a State or Territory, under the bilateral agreement, to adequately identify threats to EVR/MNES species and communities, within its own projects and successfully mitigate these issues.
- Assess the likely cumulative impacts of all of the current project proposals for the Mary River catchment.
- Assess the ability to identify and manage key threatening factors such as habitat loss and habitat degradation and the control of pest fauna and flora, under the Act.
- Assess the feasibility of incorporating PVA and PVHA modeling into the EPBC assessment process for EVR species.
- Assess the ability of the Act to adequately protect EVR/MNES species and communities from overuse or mismanagement of certain resources, particularly water.
- Assess the feasibility of the Act to adequately protect EVR/MNES species or ecological communities identified as data deficient in an initial application. Thorough investigation must be undertaken, possibly over a number of years, before the Controlled Action should proceed to the next level of the assessment process.

Kind regards,

Craig & Gabrielle Latta

AFTCRA Inc.