

## Response ID ANON-K57V-XZCB-4

Submitted to EPBC Act Review: Make a submission on the discussion paper

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### 1. About you

#### 1 What is your name?

**First name:**

Rosemary

**Last name:**

Glaisher

#### 2 Are you making this submission as an individual or on behalf of an organisation?

Organisation

**Organisation name (if applicable):**

Kinglake Friends of the Forest Inc.

**What is the scope of your organisation? :**

Local

#### 3 What sector best represents you or your organisation?

**What sector best represents your organisation? :**

Environment

**If Other, please specify::**

Also education and tourism

#### 4 Which State or Territory are you from?

**Which State or Territory are you from?:**

Victoria

#### 5 Do you identify as Aboriginal or Torres Strait Islander?

No

#### 6 What are your key areas of interest in the EPBC Act?

Threatened species, Environmental Impact Assessments, Cumulative impacts, Climate change, Compliance and enforcement, Decision making, Public participation in decision making, Biodiversity, Conservation

**Other:**

Forests

#### 7 Can the EPBC Act Review Secretariat contact you about your submission?

Yes

**If Yes, please enter your email :**

kinglakefriendsoftheforests@gmail.com

### 2. About the EPBC Act

**1 Some have argued that past changes to the EPBC Act to add new matters of national environmental significance did not go far enough. Others have argued it has extended the regulatory reach of the Commonwealth too far. What do you think?**

**have argued that past changes to the EPBC Act of adding new matters of national environmental significance did not go far enough. Others have argued it has extended the regulatory reach of the Commonwealth too far. What do you think?:**

We believe the EPBC Act as it stands does not provide adequate protection for the natural environment. Australia's shocking extinction rate and the extinction trajectory of so many of our species are proof of this.

Almost all projects (99.7%) assessed by the Federal Government get rubber-stamped, with just 2% later knocked back by the courts.

Old growth forests and homes to endangered species are still being clear-felled for woodchips. 48 of our forest fauna species are threatened by logging in Australia.

## **2 How could the principle of Ecologically Sustainable Development (ESD) be better reflected in the EPBC Act? For example, could the consideration of environmental, social and economic factors, which are core components of ESD, be achieved through greater inclusion of cost benefit analysis in decision making?**

### **How could the principle of Ecologically Sustainable Development (ESD) be better reflected in the EPBC Act?:**

"Section 3A of the EPBC Act defines the principles of ecologically sustainable development as follows:

Decision making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations." The word order in this sentence reflects poor priorities. The "E" in EPBC Act stands for "Environmental", not "Economic".

This is further reflected in references to cost benefit analysis which imply that all aspects of the environment can be reduced to a dollar value. How do you identify what value a future generation will place on a particular ecosystem, ecosystem service or other aspect of the natural environment? How do you put a value on another species' inherent right to exist? Any cost benefit analysis must ensure that true environmental costs and value, including the value of ecosystem services, are included. It is not clear that this is even possible but an honest attempt must be made.

## **3 Should the objects of the EPBC Act be more specific?**

### **Should the objects of the EPBC Act be more specific?:**

The objects of the EPBC Act should be clear and straightforward even if their execution is more difficult. The current wording seems vague and half-hearted.

There should be one clear, over-arching object:

"To conserve and protect Australia's natural environment, its heritage and biological diversity including genes, species and ecosystems, its land and waters and the life-supporting functions they provide."

Note that this is consistent with recommendations of the Report of the Independent review of the EPBC Act 1999 (2009) (Hawke Review), at 1.49-1.50: The primary object of this Act is to protect the environment, through the conservation of ecological integrity and nationally important biological diversity and heritage.

Secondary objects should flow logically from the over-arching object but provide more detail. They should include issues such as national leadership and partnership on the environment and sustainability, ecologically sustainable development, the recovery and prevention of extinction or further endangerment of Australian plants, animals and their habitats.

The Act should encompass fair and efficient decision-making, government accountability, early and ongoing community participation in decisions that affect the environment and future generations, and improved public transparency.

Currently there is limited public confidence that our views, even when sought, are actually taken into account.

The Act should specify how the objects are to be achieved. For example, Ministers and agencies should be required to exercise their powers and functions under the Act to achieve the Act's objects.

## **4 Should the matters of national environmental significance within the EPBC Act be changed? How?**

### **Should the matters of national environmental significance within the EPBC Act be changed? How?:**

There are a number of areas of environmental concern that are currently not covered by the Act.

Six more triggers are needed:

a). Ecosystems of National Importance (including High Conservation Value Vegetation and Key Biodiversity Areas).

These ecosystems should have protection even where they are not threatened. It is better to prevent this happening than be faced with expensive or impractical remediation solutions later. eg climate refugia (current and potential), high concentrations of biodiversity etc

b). The National Reserve System (terrestrial and marine protected areas)

It is concerning that the Act does not consider the NRS as a matter of environmental significance. The Act should also set national goals and targets to complete the NRS as a comprehensive, adequate and representative array of Australia's terrestrial and marine ecosystems, and refer to strategic goals and targets under the Convention on Biological Diversity.

c). Vulnerable ecological communities.

These communities should be listed alongside other threatened species and ecological communities. This is consistent with the precautionary principle and likely to be less expensive in the long run.

d). Significant land-clearing activities.

The Act should adopt a trigger to regulate significant clearing of native vegetation. Clearing of sensitive areas such as High Conservation Value Vegetation should not be allowed other than for identified and approved conservation or emergency management purposes.

Commonwealth efforts to preserve national biodiversity, reduce GHG emissions and achieve landscape scale conservation are hamstrung by a constantly changing mix of state land clearing laws and policies. A comprehensive federal land-clearing trigger would solve this.

This trigger would include three criteria: scale, sensitivity and high conservation value. Any of these would constitute significant land-clearing that requires Commonwealth assessment and approval to proceed, or outright prohibition.

■ Scale: 100 hectares or more of native vegetation in any two year period (designed to record and regulate cumulative impacts);

■ Sensitivity: a schedule of regulated activities, even if small scale, of clearing proposed (e.g. low-level clearing in over-cleared areas)

■ Protected areas: a scheduled list of prohibited activities in nationally protected areas (eg. clearing, modification or degradation of native vegetation that is

known critical habitat for endangered species or ecological communities, High Conservation Value Vegetation and Key Biodiversity).

e). Significant greenhouse gas emissions

The damaging impact of anthropogenic global heating on biodiversity has been known and widely accepted for decades. Yet our regulatory systems fail to address this. Federal environmental law urgently needs a significant GHG emission trigger. This is highly relevant to the loss of carbon stores when native forests undergo clearing and post logging burns.

f). Significant water resources

The water trigger should be broadened to include significant impacts on all key surface and ground water resources, not just those from coal and CSG projects. Damage to water catchments from logging activities would need to be investigated.

**5 Which elements of the EPBC Act should be priorities for reform? For example, should future reforms focus on assessment and approval processes or on biodiversity conservation? Should the Act have proactive mechanisms to enable landholders to protect matters of national environmental significance and biodiversity, removing the need for regulation in the right circumstances?**

**Which elements of the EPBC Act should be priorities for reform? For example, should future reforms focus on assessment and approval processes or on biodiversity conservation? Should the Act have proactive mechanisms to enable landholders to protect matters of national environmental significance and biodiversity, removing the need for regulation in the right circumstances?:**

The Act should prioritise biodiversity conservation but achieve this via appropriate assessment and approval processes. Absolute protection of critical habitat must be monitored and enforced. Unreferred habitat loss must be monitored and investigated and appropriate enforcement action taken. The cumulative impacts of all developments including the trajectory of habitats of all common and threatened species should be documented and assessed.

**6 What high level concerns should the review focus on? For example, should there be greater focus on better guidance on the EPBC Act, including clear environmental standards? How effective has the EPBC Act been in achieving its statutory objectives to protect the environment and promote ecologically sustainable development and biodiversity conservation? What have been the economic costs associated with the operation and administration of the EPBC Act?**

**What high level concerns should the review focus on? For example, should there be greater focus on better guidance on EPBC Act, including clear environmental standards? How effective has the EPBC Act been in achieving its statutory objectives to protect the environment and promote ecologically sustainable development and biodiversity conservation? What have been the economic costs associated with the operation and administration of the EPBC Act?:**

High level concerns

Environmental protection and biodiversity conservation should be the primary aim of the Act, consistent with Australia's international obligations.

Decision-makers should be mandated to exercise their powers to achieve the Act's aims.

Climate change, land clearing, and cumulative impacts must be effectively addressed, using new triggers where necessary.

Accountability is an issue.

Accountability mechanisms are needed to hold the regulator and decision-makers to account including:

- a) Greater transparency
- b) Public participation in decision-making and planning
- c) Third party review rights

Greater emphasis should be placed on Indigenous leadership and rights (including free prior informed consent requirements), land management and biodiversity stewardship, and formal legal recognition of Indigenous Protected Areas.

Re the Act's effectiveness.

State of the Environment Reports in 2011 and 2016 confirm that much of our environment is continuing to decline. The six barriers to effective national environmental protection listed in the 2016 report must be addressed.

a. Lack of an overarching national policy that establishes a clear vision for the protection and sustainable management of Australia's environment to the year 2050

b. Poor collaboration and coordination of policies, decisions and management arrangements across sectors and between managers (public and private)

c. A lack of follow-through from policy to action

d. Inadequacy of data and long-term monitoring;

e. Insufficient resources for environmental management and restoration

f. Inadequate understanding and capacity to identify and measure cumulative impacts.

This will require a substantial re-write of the Act.

Economic costs.

It needs to be remembered that economic operational and administrative costs pale into insignificance in comparison with the costs, economic and other, of the failure of the Act to achieve its objectives.

### 3. What the future looks like

#### 7 What additional future trends or supporting evidence should be drawn on to inform the review?

**What additional future trends or supporting evidence should be drawn on to inform the review?:**

The Act should be supported by a positive flagship initiative called the "National Ecosystems Assessment", as proposed by the the Environmental Defenders Office. This should be coordinated by the Environment Department, and assisted by the proposed National Sustainability Commission (see Q9) and National EPA

as well as counterpart state/territory agencies.

The "National Ecosystems Assessment" would underpin planning and decision-making under the Act.

It would:

■ - involve a rapid initial assessment to identify areas under imminent threat, and other immediate and essential actions to protect the national environment, such as the identification and protection of High Conservation Value Vegetation (interim report).

This is especially important since the 2020 fires.

■ - support the Minister's legal duty to identify, assess and list (via the Scientific Committee) all nationally Threatened Ecological Communities within five years (major report), with ongoing duties to keep lists up-to-date

■ - identify, recognise and map the new Commonwealth-protected matters of Ecosystems of National Importance and a comprehensive, adequate and representative National Reserve System;

■ - provide a properly resourced and comprehensive update to Australia's biodiversity mapping and integrated data-sharing systems;

■ - better inform a national network of bioregional plans;

■ - identify baselines, reference points or indicators for a system of National Environmental Accounts, with clear timeframes, stages and budgetary allocations from the Commonwealth, state and territory governments

■ - promote the concept of ecosystem services and identify the benefits (or services) that key natural assets provide to human society, consistent with the Aichi targets under the Convention on Biological Diversity.

The EPBC Act should also specify that the National Ecosystems Assessment be reviewed and updated periodically, for example, within 10 years of the first assessment's final report.

#### 4.A. The role of the EPBC Act

### 8 Should the EPBC Act regulate environmental and heritage outcomes instead of managing prescriptive processes?

#### Should the EPBC Act regulate environmental and heritage outcomes instead of managing prescriptive processes?:

The focus of the Act should be to achieve strong environmental outcomes, especially for biodiversity. Strong biodiversity outcomes will only be possible with a much greater emphasis on good, clear goal setting and coordinated back-end information, monitoring and reporting systems and enforcement.

The current EPBC Act lacks clear goals, aims and outcomes. As the current stewards of the land we should be ensuring that at the very least there is no net loss of environmental values or decline in populations of threatened species either animal or plant. Indeed we should be aiming to mend the damage already done.

It is also incumbent on us to achieve net zero emissions with great urgency.

#### 4.B. Better environment and heritage outcomes

### 9 Should the EPBC Act position the Commonwealth to take a stronger role in delivering environmental and heritage outcomes in our federated system? Who should articulate outcomes? Who should provide oversight of the outcomes? How do we know if outcomes are being achieved?

#### Should the EPBC Act position the Commonwealth to take a stronger role in delivering environmental and heritage outcomes in our federated system? Who should articulate outcomes? Who should provide oversight of the outcomes? How do we know if outcomes are being achieved?:

The Commonwealth should play a stronger role in environmental and heritage outcomes.

These should be developed and articulated by the new Sustainability Commission\* with advice from expert bodies such as the new Threatened Species Scientific Committee and expert advisory committees.

Long-term biodiversity goals, standards, indicators and reporting to inform policy and decision-making will need to be developed. The goals and standards will have to relate to the indicators and be tracked via mandatory monitoring and reporting requirements in the Act. Monitoring must be well-resourced and audited.

Oversight should be provided by:

1. Independent "State of the Environment" (SOE) and "National Sustainability Outcomes" (NSO) reporting to improve public awareness, policy-making and implementation, and environmental performance.
2. "National Environmental Accounts" that track natural assets and their extent, condition and threat status over time.
3. An online monitoring and reporting hub for comparative reporting and easy public and professional access to public registers; licensing, compliance and enforcement data; bioregional plans, policies accredited under strategic assessments, and associated performance audits; periodic and annual reports (including SOE and NSO); and the National Environmental Accounts.
4. Mandatory public inquiries into the extinction of threatened species, rather like coronial inquests.

Outcomes should be publicly available via the online hub mentioned above.

The Act should also require an independent State of the Environment (SOE) report and a National Sustainability Outcomes (NSO) report be tabled in the Australian Parliament along with responses to it.

SOE reports would provide a national snapshot of environmental outcomes, comparative performance, key threat assessments and emerging environmental management priorities. They would also provide a high-profile record for the Sustainability Commission to track outcomes and report progress against national environmental goals and standards.

SOE reports would include rigorous, comprehensive assessment and tracking of environmental baselines, outcomes and trends across a range of themes over time. For biodiversity, this could include threatened species and ecological community nominations, listings and trends, key threats to biodiversity, recovery plans, bioregional plans and protected area management plans.

\*The proposed National Sustainability Commission would be responsible for developing national plans, strategies and standards, as well as having strategic oversight, advisory and reporting functions. The Commission would have its own staff and budget, advise the Environment Minister, the Department and other institutions on national priorities, be independent of departmental or ministerial direction, and report annually to the Parliament on the state of the environment

and the achievement of ecologically sustainable development.

#### **10 Should there be a greater role for national environmental standards in achieving the outcomes the EPBC Act seeks to achieve?**

##### **Should there be a greater role for national environmental standards in achieving the outcomes the EPBC Act aims to deliver?:**

The Act should require the establishment of specific national goals to achieve positive environmental outcomes under rolling National Environment and Sustainability Plans eg

- prevent extinction of native species and ecosystems, meet goals in recovery plans,
- integrate and assess ■ ecosystem services ■ and values in all levels of decision making.

#### **11 How can environmental protection and environmental restoration be best achieved together?**

##### **How can environmental protection and environmental restoration be best achieved together?:**

Yes. Restoration of degraded and rare habitats is vital and will only happen with clear legislative provisions and land management incentives.

Damaging actions must not be approved in areas of critical habitat for threatened species or ecological communities. Biodiversity offsets should not be available for critical habitat. Its essential role in preventing extinction cannot be duplicated. There must be clear legal duties to restore and repair environmental damage.

The Act should reinvigorate a national ■■stewardship payments■■ fund for private landholders to achieve priority outcomes for national and bioregional biodiversity conservation.

#### **12 Are heritage management plans and associated incentives sensible mechanisms to improve? How can the EPBC Act adequately represent Indigenous culturally important places? Should protection and management be place-based instead of values based?**

##### **Are heritage management plans and associated incentives sensible mechanisms to improve? How can the EPBC Act adequately represent Indigenous culturally important places? Should protection and management be place-based instead of values based?:**

The Act should better recognise and promote Indigenous environmental management and consensual knowledge sharing. Consultation with Traditional Owners might find approval for innovations like:

1. an Indigenous Land and Waters Commissioner and an Indigenous Cultural Heritage Advisory Council to support the proposed Sustainability Commission;
2. Requirements for free prior informed consent informed by the UN Declaration on the Rights of Indigenous Peoples (to which Australia is a signatory); and
3. Formal legal recognition of Indigenous Protected Areas as matters of national environmental significance, with long-term funding.

Indigenous Protected Areas (IPAs) should be recognised as matters of national environmental significance under the EPBC Act.

#### **4.C. More efficient and effective regulation and administration**

#### **13 Should the EPBC Act require the use of strategic assessments to replace case-by-case assessments? Who should lead or participate in strategic assessments?**

##### **Should the EPBC Act require the use of strategic assessments to replace case-by-case assessments? Who should lead or participate in strategic assessments?:**

Biodiversity laws need to expand beyond individual projects to a landscape scale approach.

Landscape scale approaches plan holistically for ecosystem health, resilience, connectivity and climate change readiness and are useful to identify and protect Ecosystems of National Importance (whether or not they are threatened), such as climate refugia, key biodiversity areas and High Conservation Value Vegetation.

Strategic assessment can be used to assess multiple future activities or projects upfront, under a government policy or environmental impact assessment system that is legally enforceable and objectively accredited to meet Commonwealth standards.

When done properly, strategic environmental assessment is a critical tool for addressing cumulative impacts (in a far more effective way than project by project assessment), but the EPBC Act must strengthen the rigour of strategic environmental assessment processes.

However it should not replace case-by-case assessments but be used to create good data about the environment of the region, identify acceptable thresholds of impact and create clear rules for project-level assessment. Project-level assessments would then become quicker and cheaper.

#### **14 Should the matters of national significance be refined to remove duplication of responsibilities between different levels of government? Should states be delegated to deliver EPBC Act outcomes subject to national standards?**

##### **Should the matters of national significance be refined to remove duplication of responsibilities between different levels of government? Should states be delegated to deliver EPBC Act outcomes subject to national standards?:**

We are concerned about government policy to create a "one stop shop" for environmental approvals to improve efficiency by passing the responsibility to states and territories.

Extensive analysis of state and territory biodiversity and planning laws has found that state and territory laws do not meet the full suite of national standard. (See: Assessment of the adequacy of threatened species and planning laws December 2012, September 2014, available at:

[https://www.edonsw.org.au/native\\_plants\\_animals\\_policy](https://www.edonsw.org.au/native_plants_animals_policy).) In some cases, this has worsened over time. (For example, biodiversity offsetting in NSW is now significantly weaker than the national standard - see: [https://www.edonsw.org.au/biodiversity\\_legislation\\_review](https://www.edonsw.org.au/biodiversity_legislation_review))

Victoria's management of the logging industry over the last 20 years has resulted in a serious loss of public confidence in the state government's ability, or perhaps willingness, to achieve acceptable environmental outcomes.

Kinglake Friends of the Forest has worked hard to engage with VicForests, DELWP and the Office of the Conservation Regulator to ensure that logging activities in Kinglake and the Central Highlands comply with the relevant Code of Practice. We have repeatedly lodged breach reports regarding such issues as inappropriate logging methods impacting on Greater Gliders, dangerous work practices (potentially impacting on people using the public road) and the bulldozing of an access road through a Leadbeater's Possum Special Protection Zone. We have also called meetings with representatives of VicForests. Sadly, it often seems that the priority is to get the timber out with as little inconvenience as possible and with little regard for their legal obligations regarding environmental impacts. We have some successes with getting logging methods in a given coupe changed slightly for the better but, often, the response from these departments is so slow that the damage is already done. Groups similar to ours (Wildlife of the Central Highlands and Friends of the Leadbeater's Possum) have had to resort to taking VicForests to court in an attempt to get them to act within the law.

**15 Should low-risk projects receive automatic approval or be exempt in some way? How could data help support this approach? Should a national environmental database be developed? Should all data from environmental impact assessments be made publicly available?**

**Should low-risk projects receive automatic approval or be exempt in some way? How could data help support this approach? Should a national environmental database be developed? Should all data from environmental impact assessments be made publicly available?:**

No. Automated approvals carry unacceptable risk.

**16 Should the Commonwealth's regulatory role under the EPBC Act focus on habitat management at a landscape-scale rather than species-specific protections?**

**Should the Commonwealth's regulatory role under the EPBC Act focus on habitat management at a landscape-scale rather than species-specific protections? :**

This should not be either or. Both are important and should support each other.

**17 Should the EPBC Act be amended to enable broader accreditation of state and territory, local and other processes?**

**Should the EPBC Act be amended to enable broader accreditation of state, local and other processes?:**

No. See Q14

**18 Are there adequate incentives to give the community confidence in self-regulation?**

**Are there adequate incentives to give the community confidence in self-regulation?:**

No. Without strict monitoring and an active compliance regime, self-regulation will not work.

In addition, such a system would not properly monitor and take into account cumulative effects, the death by a thousand cuts, that is degrading our environment.

See Q14

#### **4.D. Indigenous Australians' knowledge and experience**

**19 How should the EPBC Act support the engagement of Indigenous Australians in environment and heritage management?**

**How should the EPBC Act support the engagement of Indigenous Australians in environment and heritage management?:**

See Q12

#### **4.E. Community inclusion, trust and transparency**

**20 How should community involvement in decision-making under the EPBC Act be improved? For example, should community representation in environmental advisory and decision making bodies be increased?**

**How should community involvement in decision making under the EPBC Act be improved? For example, should community representation in environmental advisory and decision making bodies be increased?:**

Yes. Strictly speaking, the public should be able to trust government bodies to monitor the behaviour of organisations such as VicForests but this is demonstrably not the case. The Australian government should not be relying on the skills, generosity and limited person power and resources of groups such as Friends of the Leadbeater's Possum, Wildlife of the Central Highlands (WOTCH) and Kinglake Friends of the Forest. These groups complete surveys for threatened and endangered species and critical habitat, record their findings and write and submit reports. Logging which is illegal for various reasons is also reported to the relevant government agencies. When the reports are ignored, which they often are, these volunteer groups then sometimes take these matters to court.

However while this community action remains necessary, as it clearly is at present, there should be open standing to allow citizens and community to take environmental breaches to court in public interest cases. The public should have the right to ensure that key decisions under the EPBC Act are made according to the law.

To enable members of the community to use laws to protect biodiversity, the EPBC Act must provide for protective costs orders.

In cases of public interest, there should be a public costs order to prohibit security for costs. The public interest applicant should not have to give an undertaking as to damages as a pre-condition to granting an interim injunction, where protection of matters of national environmental significance is at stake.

This would allow community members to defend biodiversity against unlawful or inappropriate degradation, by ensuring the costs of access to information and civil enforcement are no barrier and are equitably distributed.

**21 What is the priority for reform to governance arrangements? The decision-making structures or the transparency of decisions? Should the decision makers under the EPBC Act be supported by different governance arrangements?**

**What is the priority for reform to governance arrangements? The decision-making structures or the transparency of decisions? Should the decision makers under the EPBC Act be supported by different governance arrangements?:**

Currently the Act allows for too much discretion in decision making. This weakens it.

The Act should mandate Ministers and agencies to use their powers to achieve the Act's (clarified) objects and maintain or improve the environmental values and ecological character of protected matters under the Act.

The Act should also ensure that key decisions are made in accordance with clear criteria. Key decision-making points in the legislative framework must be identified eg listing decisions, critical habitat identification, thresholds for controlled actions, recovery planning and bioregional planning, along with the objective criteria to be applied.

There should be public and independent oversight once decisions are made.

#### **4.F. Innovative approaches**

**22 What innovative approaches could the review consider that could efficiently and effectively deliver the intended outcomes of the EPBC Act? What safeguards would be needed?**

**What innovative approaches could the review consider that could efficiently and effectively deliver the intended outcomes of the EPBC Act? What safeguards would be needed?:**

See Q9

**23 Should the Commonwealth establish new environmental markets? Should the Commonwealth implement a trust fund for environmental outcomes?**

**Should the Commonwealth establish new environmental markets? Should the Commonwealth implement a trust fund for environmental outcomes? :**

**24 What do you see are the key opportunities to improve the current system of environmental offsetting under the EPBC Act?**

**What do you see are the key opportunities to improve the current system of environmental offsetting under the EPBC Act?:**

The Act should have clear, science-based regulations. The Act should not permit biodiversity offsetting of impacts on critical habitat, endangered or critically endangered species and ecological communities. Some assets are too significant (or outcomes too uncertain) to offset. This approach also reinforces incentives to conserve species at a landscape scale to avoid extinction risk in the first place.

Use of biodiversity offsets should be an absolute last resort. The National Offsets Policy and standards must:

- a. meet strict scientific like-for-like biodiversity principles and adopt a "maintain or improve" standard to measure outcomes;
- b. ensure offsets are protected in perpetuity (offsets cannot be offset);
- c. be consistent with a precautionary principle;
- d. make clear that no offsets should be available for future mine remediation due to lack of evidence of success;
- e. ensure that offsetting is consistent with recovery goals in recovery plans.

**25 How could private sector and philanthropic investment in the environment be best supported by the EPBC Act?**

**How could private sector and philanthropic investment in the environment be best supported by the EPBC Act?:**

Groups of volunteer citizen scientists, in groups like WOTCH (Wildlife of the central Highlands), dedicate countless hours to carrying out the work which should properly be done by government agencies, but which is not, should be able to apply for funding.

Volunteers already spend countless hours in forests, usually at night, surveying and recording species such as Leadbeater's Possums, Greater Gliders, Sooty Owls etc in forest where logging is imminent. The reports of these recordings not infrequently result in populations of endangered or threatened species being saved from the bulldozers.

#### **5. Principles to guide future reform**

**26 Do you have suggested improvements to the above principles? How should they be applied during the review and in future reform?**

**Do you have suggested improvements to the above principles? How should they be applied during the Review and in future reform?:**

"Making decisions simpler" sounds like another euphemism along the lines of "cutting green tape". In practice these actually mean weakening environmental protections. How can regulations to protect our environment possibly be described as "unnecessary regulatory burdens"?

#### **6. General questions**

**27 Is the EPBC Act delivering what was intended in an efficient and effective manner?**

**Is the EPBC Act delivering what was intended in an efficient and effective manner?:**

No. This is demonstrated by the following:

1. Australia has the one of the worst rates of species extinction on the planet
2. Old growth forests and homes to endangered species are still being clear-felled for woodchips. 48 of our forest fauna species are threatened by logging in Australia.  
Deforestation rates in Australia compare with the destruction of the Amazon which kills wildlife and impacts air and water quality in all communities.
5. River pollution and over-extraction of water is destroying our water supplies and natural assets like the Murray-Darling and the Great Barrier Reef.
6. The opening up of huge new polluting coal, gas and oil mines threatens the health and livelihoods of local communities and continues to worsen climate

change

7. Climate change is wreaking havoc on our river systems, water supplies, forests and the Great Barrier Reef.

## 28 How well is the EPBC Act being administered?

### How well is the EPBC Act being administered?:

As previously mentioned, the Act is too weak and its administration is relatively ineffectual when it comes to actually protecting our environment.

## 29 Is the EPBC Act sufficient to address future challenges? Why?

### Is the EPBC Act sufficient to address future challenges? Why?:

No. State of the Environment Reports in 2011 and 2016 confirm that our environment is continuing to decline. The six barriers to effective national environmental protection listed in the 2016 report must be addressed. ie.

1. Lack of an overarching national policy that establishes a clear vision for the protection and sustainable management of Australia's environment to the year 2050

2. Poor collaboration and coordination of policies, decisions and management arrangements across sectors and between managers (public and private)

3. A lack of follow-through from policy to action

4. Inadequacy of data and long-term monitoring

5. Insufficient resources for environmental management and restoration

6. Inadequate understanding and capacity to identify and measure cumulative impacts.

This will require a substantial re-write of the Act.

After the 2019/2020 fires business as usual cannot continue. Environmental protection needs to be taken much more seriously. So much habitat was destroyed and so many animals killed that previous assumptions about the likely survival of any given species can no longer be relied upon and licence for actions which cause further deliberate environmental disruption must only be granted with extreme caution.

Australia needs to be much more responsible in its approach to Greenhouse Gas emissions. This should be reflected in an EPBC Act that takes an uncompromising attitude to proposed projects that will have a significant GHG footprint.

## 30 What are the priority areas for reform?

### What are the priority areas for reform?:

See Q29

## 31 What changes are needed to the EPBC Act? Why?

### What changes are needed to the EPBC Act? Why?:

The shortcomings listed in Q29 need to be addressed. The Environmental Defenders Office has written detailed guidelines for new instruments that would provide an excellent base from which to tackle these problems.

## 32 Is there anything else of importance to you that you would like the review to consider?

### Is there anything else of importance to you that you would like the review to consider?:

The existence of the Regional Forest Agreements which allow the states to (mal)administer environmental protections towards species and ecosystems of national and international importance is an abrogation of the EPBC Act's responsibilities.

The 2018 "State of the Forest Report" <https://www.ces.vic.gov.au/reports/state-forests-2018>, produced by the Commissioner for Environmental Sustainability, studied the impacts of ongoing logging under Victoria's RFAs on our threatened species. It found that:

- Forest-dependent wildlife species are trending downwards, with concerns about the ability of species to maintain viable breeding populations.
- There has been a significant increase in species on the government's Advisory List (of species at risk of extinction): in 2013, there were 461 species listed; in 2018 there were 497.
- The conservation status of mammals across Victoria is of particular concern, with 40% of listed species being close to extinction.
- In the Central Highlands—an area targeted for logging—a deterioration in the overall status of species has occurred. The number of species listed on the IUCN Red List has increased from 16 to 44 since 1990.

The Central Highlands of Victoria is the area that Kinglake Friends of the Forest concerns itself with. We run popular Greater Glider spotting expeditions and other educational and recreational activities in our local forests. But VicForests is exempt from the EPBC Act under the RFA and state instruments are failing to protect these species, areas of HCV and critical habitats. Along with other groups, we submit reports of imminent or ongoing environmental breaches to DELWP but we can't be everywhere at once and shouldn't have to be. Often the response to these carefully documented and verifiable reports is either non-committal or so slow as to be of little value. It is already too late. Hence, we are forced to watch as our favourite places are destroyed. Patches of forest where we have seen Greater Gliders, heard Sooty Owls, where Leadbeaters Possums have been detected are clear felled then what's left incinerated.

Under current Federal laws and intergovernmental agreements (i.e. RFAs) these species are being pushed relentlessly and knowingly towards extinction in the wild.

The RFAs are failing threatened species, failing the environment and failing the people in the states where they exist. They need to go.

## 7. Add an attachment



**Add attachment****Add attachment:**

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