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EPBC Act Review Discussion Paper

The Urban Bushland Council WA Inc. is an association of ~75 community organisations and 80+ individual supporters with a common interest in the conservation and protection of urban bushland in WA. 'Urban bushland' includes native vegetation and wetlands in or associated with urban areas of the State. Our current member groups are all located and involved in the south west region and Wheatbelt regions of WA. Most are 'Friends of' groups who help public land owners with on-ground bushcare (eg hand weeding, revegetation, summer watering), biodiversity surveys, awareness raising (eg guided walks). The voluntary community contribution to protection and management of our unique rich biodiversity is massive.

The Urban Bushland Council makes the following comments on your *EPBC Act* discussion paper.

There are 4 terms of reference.

There are 26 questions asked for comment.

TERMS OF REFERENCE

The terms of reference are supported.

Australia's international environmental responsibilities imply the need for the recognised global biodiversity hotspots (Myers *et al*, 2000– see below) in Australia to be listed as MNES. In WA, the South West region is one of these hotspots. It should also be World Heritage Listed for its outstanding and unique biodiversity values.

QUESTIONS

Matters of National Environmental Significance (MNES): Questions 1 & 4

The list of MNES does not go far enough. The current list should be retained, provisions for their protection strengthened, and enforced and funded, and others added.

The following should be added as MNES:

1. **Add vulnerable category:** Add both threatened ecological communities and also threatened species classed as 'vulnerable'. This is consistent with the precautionary principle to protect species and communities at risk.

2. **Add ecosystems of International and of National Importance.**

Ecosystems of international importance include **WA's South West Biodiversity Hotspot for conservation priority because it is under threat'**. Reference: Biodiversity Hotspots for

Conservation Priority, by Myers *et al* (Nature Vol. 403, p 853-858, 24 February 2000). This region of recognised international significance deserves statutory national recognition and enforced protection under the *EPBC Act*. Federal Government funding for their protection and on-ground management must be provided.

Add Ecosystems of National Importance, Wetlands of National Importance, and Significant Wildlife Corridors.

3. **Add The National Reserve System**

This would include Commonwealth, State, Territory, and Indigenous Protected Areas. For WA this should also include the **Bush Forever** 'CAR' (Comprehensive, Adequate and Representative) reserve system for the Swan Coastal Plain portion of the Perth Metropolitan Region. National goals and their enforcement are needed.

4. **Add land clearing**

Land clearing is a very highly significant issue for WA. There is currently an unsustainable net loss of native vegetation. Also the cumulative impact of clearing native vegetation and deforestation across all States and Territories is highly significant for biodiversity loss. ~~and~~ It requires strict regulation under the *EPBC Act* via listing as a MNES. The net loss of vegetation from clearing is also a highly significant climate change issue with the loss of carbon sequestration. Clearing should be explicitly prohibited under the *EPBC Act* in certain declared areas including (but not only) the WA south west biodiversity hotspot, the WA Wheatbelt, and all habitats of listed threatened species and communities.

5. **Add production of Greenhouse gas emissions** in order to strictly regulate or prohibit high emitting projects. Proposals for new fossil fuel mining and production which produce emissions should be explicitly prohibited. To address climate change impacts, there must be an increase in new vegetation cover in WA and in other States and Territories to achieve a net increase in carbon sequestration. Notably mangroves are the richest carbon sinks per hectare. Old growth forests are also highly significant carbon stores.

6. **Add threatening processes** listed under other sections of the *EPBC Act*. An example is dieback disease.

7. **Add nuclear actions** (nuclear power production, uranium exploration and mining, burial of nuclear waste) as MNES.

It is important that the prohibition of nuclear power under the *EPBC Act* be retained.

It is recommended that adverse impacts on some MNES be prohibited:

- areas designated as critical habitat of endangered species
- listed endangered and critically endangered species
- listed endangered and critically endangered ecological communities
- high conservation value vegetation.

Question 6: *How effective has the EPBC Act been in achieving its statutory objectives to protect the environment and promote ecologically sustainable development and biodiversity conservation?*

1. Conservation of biodiversity has not been effective as there has been **inadequate enforcement**

of the protection of MNES with continual clearing of MNES being approved resulting in ongoing and unabated net loss. Clearing has been approved for areas of endangered and critically endangered ecological communities (TECs) contrary to their respective Approved Conservation Advices which state that these communities are to be protected to prevent their further loss of extent and condition. **This lack of enforcement means the EPBC Act has overtly failed to protect these TECs.** Examples in WA are for the *critically endangered* WA Wheatbelt Woodlands, and for the *endangered* Banksia Woodlands of the Swan Coastal Plain. **To protect these TECs, clearing of these TECs must not be permitted and this must be enforced.**

2. **In WA especially**, there has also been a **lack of federal government funding** for on-ground protection and conservation of biodiversity and MNES and for recognised ecosystems of international and national importance. Former funding for example through the National Estates Grants Program (NEGP) has ceased. Land managers of MNES in WA do not receive any federal funding.

This needs to be addressed by greatly increased federal government funding both for grant funding capacity and for greatly increased employment of government staff for on-ground biodiversity protection. For example funding for effective control of feral animals (especially cats, foxes) and invasive weeds is essential. Funding for dry grassy weed control is required to reduce fire risk especially on the WA Swan Coastal Plain.

3. **Climate change**: To be fit for the future, climate change and especially Greenhouse gas emissions must be strongly regulated under new provisions of the *EPBC Act*. Action on this is now urgent. A shift to 100% renewable energy production is now critically urgent.

It is strongly recommended that all new projects for mining and production of all fossil fuels be expressly prohibited under the EPBC Act.

4. **Threatening processes to biodiversity conservation** require definition, strong and effective controls. Dieback disease, land clearing, rainfall decline, declining groundwater levels, increased fire risk, invasive weeds and feral animals are all significant threats. These are not effectively controlled under current provisions of the *EPBC Act*. This must be changed.

Notably we strongly agree with the section on pages 18-19 under the heading ‘**Pressure on the environment will increase**’.

COMMUNITY PARTICIPATION

Question 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?*

Recommended improvements:

1. The community or individuals be given the right to refer proposals for environmental impact assessment under the *EPBC Act*, as is the case under the *WA Environmental Protection Act*.
2. There be an independent legal process for third party right of review and appeal of decisions on merits. See below No. 2 under Priority areas for reform.

3. There be an open standing provision for judicial review, for example if a mistake or serious omission has been made in an assessment.
4. Community representation from community environmental conservation organisations on environmental advisory and decision-making bodies should be increased.

What are the priority areas for reform? Broad question on page 35

1. Introduce a **NATIONAL ENVIRONMENTAL PROTECTION AUTHORITY (EPA)**
Introduce provisions for an independent (apolitical) expert scientific body to conduct environmental impact assessments, to ensure enforcement and regulation, and to investigate breaches of the *Act*. It should be independent from government and pecuniary conflicts of interest, provide technical expertise, and be well resourced to enable it to do the job properly. This will mean that decisions are based on science and reality which is essential for protection of the environment in the public interest and the health of the environment for future generations. Thus the principle of intergenerational equity and the precautionary principle would apply.
2. **Introduce a merits appeal and review process as an independent, expert court or tribunal** to ensure world's best practice for community participation, accountability and environmental protection. In NSW there is a Land and Environment Court. WA lacks an adequate appeal process. There is an urgent need for an effective independent third party appeal process under the *EPBC Act*.
3. **ENFORCEMENT**
For listed endangered species and ecological communities, introduce reforms that strictly enforce and fund the implementation of the associated Approved Conservation Advices so the respective species and communities are properly protected and restored, and their clearing is prohibited.
Offsets are not applicable to justify their clearing and loss.
4. **Control of land clearing. A new general goal for land clearing to stop is needed.**
An increase in net vegetation cover is needed.
5. **INTERNATIONAL MOVEMENT OF WILDLIFE Page 15**
On page 15 it states that the *EPBC Act* regulates the export of Australian native species and the import of live plants and animals.
This international movement of wildlife should be stopped.
It is strongly recommended that:
 1. The *Act* be amended so that the export of Australian native species of wildlife be totally prohibited.
 2. Further, the export of live Australian native animals be made a serious offence.
 3. The import to Australia of live animal wildlife from all countries be prohibited, monitored, and made a serious offence.
 4. The import to Australia of live plants and or soil be prohibited, and made a serious offence.
 5. These trade bans be strongly enforced by government officers and even smarter border

control technologies with substantial new funding allocated for this task. Thus the international movement of wildlife to and from Australia would be banned and stopped. Notably some countries have recently taken such action.

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