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SUBMISSION

on the NSW Biodiversity Conservation Bill

Introduction

The Clarence Environment Centre (CEC) has maintained a shop-front in Grafton for over 27 years, and has a proud history of environmental advocacy. The conservation of Australia's natural environment, both terrestrial and marine, has always been a priority for our members, and we believe the maintenance of healthy ecosystems and biodiversity is of paramount importance. Therefore, it is a grave concern to learn of plans to abolish the one piece of legislation that has contributed to the slowing, not stopping, the rapid destruction of native vegetation that has been occurring across the State since European settlement here almost 230 years ago, The *Native Vegetation Act 2003*.

Foreword

We draw your attention to the “**National Strategy for the Conservation of Australia's Biological Diversity, 1996**”, signed by the heads of all Australia' States and Territories, which opens with an explanation that: “*The Convention on Biological Diversity, was ratified by Australia on 18 June 1993, and deals at a global level with the full range of biological diversity conservation, its sustainable use, and the fair and equitable sharing of the benefits arising from this use*”.

It goes on to to explain that:

“Maintaining biological diversity is much more than just protecting wildlife and their habitats in nature conservation reserves. It is also about the sustainable use of biological resources and safeguarding the life-support systems on Earth. Ecologically sustainable management of all Australia's terrestrial and marine environments is essential for the conservation of biological diversity.

The benefits of conserving biological diversity are numerous. Biological diversity is the primary source for fulfillment of humanity's needs and provides a basis for adaptation to changing environments. An environment rich in biological diversity offers the broadest array of options for sustainable economic activity, for nurturing human welfare and for adapting to change.

The world's species provide us with all our food and many medicines and industrial products. For example, the fishing, forestry, and wildflower industries rely on the harvest of biological resources from the wild. There is great scope for developing new or improved food crops from our biological diversity”.

In short, without biodiversity, life on Earth cannot exist.

That 1996 document promised us that: *“This National Strategy for the Conservation of Australia’s Biological Diversity aims to bridge the gap between current activities and the **effective identification, conservation and management of Australia’s biological diversity**. The Strategy’s primary focus is Australia’s indigenous biological diversity. Implementation of the Strategy will require actions affecting virtually all of Australia’s land and sea, most of which will continue to be subject to a multiplicity of uses, either in parallel or in sequence”*.

In 2010, a decade and a half later “Australia’s Biodiversity Conservation Strategy 2010–2030” was prepared by the National Biodiversity Strategy Review Task Group convened under the Natural Resource Management Ministerial Council, and reviewed the progress achieved under the Strategy.

This later document repeats the warning that: *“**In this year, the International Year of Biodiversity, it is worth remembering that our survival is critically dependent on looking after our natural environments and their biodiversity – the many different kinds of animals, plants and tiny microbes, and the ecosystems that support them**”*.

This warning is then followed by a startling admission that *“**Much effort has gone into arresting the loss of biodiversity and conserving what is left; nevertheless, biodiversity continues to decline. Climate change is increasing the rate at which we are losing biodiversity by amplifying existing pressures and introducing new challenges. Loss of biodiversity will diminish the quality of our lives and the long-term prosperity of this nation, including the capacity to produce food and fibre. We need to take immediate and sustained action to conserve biodiversity**”*.

This admission of failure in 2010 was just a precursor to what was about to happen. In NSW, the right wing Coalition was elected to govern, followed shortly thereafter by the Abbott Coalition Government in Canberra, and both Governments embarked on an unprecedented campaign of environmental destruction. Led by a Prime Minister who openly stated that climate change theory was “crap”, any government department remotely associated with renewable energy was axed, and fossil fuels were promoted as the life-blood of Australia's economic future. Marine park declarations were overturned, State and Federal environmental science divisions were gutted, and funding was cut to organisations such as the Environmental Defenders Office – the list is endless.

Discussion

Right now in NSW, logging restrictions in state forests are being eased, with reduced buffers and protection strips along creek lines, allowances to log on very steep slopes, plans for clear-felling operations along the NSW coastal strip, and a 'remake' of the Integrated Forests Operations Approval that will reduce threatened species protection. All this despite the logging of public native forests having cost taxpayers many tens of millions of dollars over the past 15 years.

By drastically slashing funding on weed and vertebrate pest control in state forests, and more than halving the number of pre-harvest surveys for threatened species in 2014-15, Forest Corporation announced its first profit from native forest logging in over 10 years (it has only been logging under the Approval for 15 years), which fact says it all. The cuts to weed control come despite the knowledge that Lantana is a major factor contributing to the massive Bell Miner Associated Dieback that is occurring and which has the potential to decimate forests along the eastern seaboard.

In NSW mega coal mines have been approved which will see thousands of hectares of forest cleared at Maules Creek and areas adjacent to the Liverpool Plains, while Santos is slowly bulldozing its way through the forests of the Pilligar State Conservation area in search of coal seam gas.

Over the last 200 years Australia has experienced a marked decline in biodiversity with over 100 plant and animal species becoming extinct. In NSW we now have a thousand species of plants and animals, 49 populations and 107 ecological communities listed as threatened and facing extinction.

The depressing fact is, as anyone that is involved with biological studies and surveys will attest, there are many more species and communities that are on the brink of disappearing that are not listed, purely and simply because there is no formal mechanism, or funding, in place to undertake the research necessary to document their predicament, and the job of compiling the necessary evidence for a threatened species nomination is largely left to unpaid individuals in the community.

And now we have plans to abolish the National Parks, Threatened Species Conservation, and Native Vegetation Acts, and replace them with the NSW Biodiversity Conservation Bill. Given the current Government's record to date, we can only shudder at the thought of what environmental protections this new Bill will abolish. The Native Vegetation Act has been accredited with virtually halting broad-scale land clearing in NSW, and protecting over 4 million hectares of forest. It also allowed the Australian Government to negotiate a very favourable outcome from the Kyoto Agreement to offset our ongoing export of carbon emissions (coal) across the globe.

Even today, while the Federal Government is 'spruiking' the planting of 20 million trees in its direct action policy as the 'silver bullet' that will allow it to meet its 2015 Paris commitments, the Pacific Highway upgrade between Woolgoolga and Ballina alone will see more than that number of trees bulldozed over the next 2 years.

Analysis and Comments on the Panel's Recommendations

1. In regard to (1b) *“removing the ‘improve or maintain’ standard for clearing of native vegetation”*, we agree that this is something that cannot be realistically achieved in most cases. Nevertheless, it is critically important, given ongoing declines in levels of biodiversity, and loss of native vegetation, the continued reduction of those elements is simply not an option.

Comment: Most of the Australian mainland that is suitable for agriculture was cleared and developed before 1950, and anything that remains can only be described as marginal at best. Therefore we question why there is a perceived need to continue the destruction of native vegetation. In our region, most farmland blocks are too small for viable agricultural pursuits, with many property owners merely 'hobby farmers', clearing land and then claiming the cost as a tax deduction, and negative gearing the subsequent losses. Hardly contributing to Australia's prosperity.

2. In regard to Recommendation 2, we support the *“developing new enforceable codes of practice for those management activities that can have environmental impacts”*, but, given past experiences, have little confidence in the various agencies' will to enforce those regulations, or to back individual officers that try to do the right thing. This is an area that desperately needs strengthening to arrest the decline in morale that is evident across all relevant agencies.

3. In regard to Recommendation 7(b) we strongly oppose any inclusion of *“options for permitting low-intensity (logging) operations on private land without the need for approval”*. Low intensity cannot be satisfactorily defined, and this type of 'self-assessment' will be abused. On the other hand we strongly support (7b) the considered inclusion of *“a range of options for improving the environmental performance of haulage and harvest contractors”*.

4. In regard to Recommendation (8a) we are again strongly opposed to *“exempting very low-risk activities from the need to apply for a licence”*. Again, 'very low risk' is undefinable, and self-regulation will be abused.

5. In regard to Recommendation 14, we are again opposed to “*Expansion of the biodiversity offsets fund so it applies to **all types of development**, including the delivery of offsets required under multi-site assessments*”. It has already been established by the peer review of the BioBank scheme, that offsets always result in a **net loss** of biodiversity. Therefore, we believe that offsets should only apply to critical infrastructure, and only when it is determined that there is no less impactful alternative.
6. In regard to recommendation 19 we are, as with offsets, strongly opposed to the “*Provision of a mechanism for proponents to make a monetary contribution to secure offsets*”, for any development that is not critical infrastructure.
7. In regard to recommendation 20, we believe Federal laws must remain independent of State laws in order to retain some checks and balances, therefore there should be no bilateral agreement accreditation. Having said that, we believe there should be closer cooperation between State and Federal Departments in relation to threatened species nominations. e.g. where a species endemic to NSW is determined to be threatened, it should automatically be added to the Federal EPBC Act list, to eliminate duplication of nominations that currently exists, in completely different formats.
8. We approve of recommendation 21 to “*Consolidate the mechanisms for biodiversity conservation on private land into a three tiered system that provides proportionate incentives to landholders: biodiversity offsetting agreements, voluntary conservation agreements and wildlife refuges*”. However, the current 'propaganda' about VCAs, and BioBank offsets being protected “in perpetuity” **is nothing short of fraud. These agreements do not protect those properties against what is termed “critical development”, in fact they are not even protected against mining! VCAs can be cancelled through an agreement between the owner and the Minister, and the Minister can cancel the agreement if the owner fails to live up to the contract. This is unacceptable, and we believe “in perpetuity” protection must be guaranteed.**
9. There are a number of loosely described proposals for changes to voluntary conservation and similar agreements on privately owned land (recommendations 22 and 23), including the outsourcing of administration to third parties. These are unspecific proposals which need specific details before we are prepared to comment. However, whatever changes are adopted, it is critically important that those VCAs lead to genuine in perpetuity protection.
10. In regard to recommendation 24, “*Design a legislative framework for action on threatened species and ecological communities that formalises the programmatic approach taken by Saving our Species*”, the Clarence Environment Centre has been directly involved with the SOS process and to be honest, as far as protection is concerned, we have seen little or no concrete proposals, much less action, for the protection of the targeted threatened species. Therefore, any improved legislative framework is welcomed, but again we need to see details.
11. In regard to recommendation 26, it is always good to see increased funding for conservation. However, specifically referring to 26c, “*increased funding to the Saving our Species program to **increase the number of threatened species secured in the wild***”, we are unaware of a single land-based threatened species that has so far been “secured in the wild”. Therefore, while welcoming additional funding, we believe that funding must be better targeted. Simply providing adequate funding of resources to properly manage national parks (weed and vertebrate pest eradication, and a reduction of fire frequency), and judicious acquisition of conservation lands to provide connectivity of habitat, would go a long way towards securing threatened species in the wild.

12. Recommendations 30 to 35 revolve around how threatened species are declared. We have already commented above on the need to “*harmonise State and Commonwealth lists of threatened species*”, so clearly we support such a move, but make it clear that we would not support a single amalgamated (State and Federal) approvals process. We do support suggestions to: “*Better harness data collection efforts and make this data available to the public*”, and the idea of “*Requiring the NSW Scientific Committee to undertake periodic five-year reviews of lists*” which are peer reviewed. We also cautiously support (32) the “*Adoption of a more strategic approach to listing threatened species and ecological communities*”, but again would need to see details of the proposed strategic approach.

13. We believe recommendations 35 to 39, to be bureaucratic nonsense **that will cost taxpayers billions, waste valuable time for volunteer organisations required to comment on the various reviews, and do absolutely nothing to improve environmental health.**

14. The comment made in Recommendation 41 identifying the need to: “*Adopt an overarching goal for the proposed new ‘Biodiversity Conservation Act’: to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into the future, consistent with the principles of ecologically sustainable development*”. This is the same 'motherhood statement' that has been promoted ad-nausea for almost three decades since the term ESD was first introduced in the 1990s. However, while the principle sounds great, we believe there is no understanding of ecological sustainability amongst the general bureaucracy.

Those bureaucrats charged with planning and developing our environmental regulations around development, believe that and native vegetation can be removed, and ESD is maintained, as long as there is a protected offset. The result of this is an increase in conservation lands, **but a net loss of overall vegetation. This is NOT sustainable!**

To illustrate our point; some 4 years ago, our representative appeared before a hearing of an Upper House Inquiry into the management of public lands. One Upper House member posed the question to our representative: “If you clear a forest for a development, and offset that by planting another forest of the same size, what is the difference?” The answer was: “about 300 years”. That response seemed completely nonsensical to the politician, but the reality is that 300 years is probably the minimum time it would take for a fully functioning ecosystem to develop.

15. Finally recommendation 43: **Immediately following the grand statement about the need to “*Adopt an overarching goal for the proposed new ‘Biodiversity Conservation Act’: to maintain a healthy, productive and resilient environment for the greatest wellbeing of the community, now and into the future, consistent with the principles of ecologically sustainable development*”, we have a recommendation to: “*Amend the definition of Ecologically Sustainable Development in the Protection of the Environment Administration Act 1991*”!**

When we go on to read that the definition of ESD should include “*economic considerations in decision-making*”, is it any wonder that those concerned about the future of the environment despair of our Government, and its ability to address the issues that have to be taken seriously if mankind is to survive on this planet.

Recommendations

The continuing loss of biodiversity demonstrates that much more needs to be done, so we believe this review of biodiversity laws is a timely opportunity to strengthen them.

All Australian Governments have to take environmental protection seriously, and it seems to us that in this greed driven society, the majority of landowners will not take measures to protect biodiversity unless they stand to benefit financially, and certainly the 'big stick' approach has not been affective. Having said that we believe the big stick should be retained and regulations to protect biodiversity rigorously enforced, something that has not always happened in the past.

Therefore we suggest, to sweeten the big stick approach, all State Governments need to lobby their Federal counterpart with a view to overcoming this problem. Together they can:

- 1.** Introduce a scheme, preferably along the lines of a carbon trading scheme which would be funded by polluters, whereby landowners can receive credits for measured increases in stored carbon on their land, giving them the opportunity of an alternative income stream.
- 2.** In areas where landowners now find themselves with farmland that is no longer viable, as a result of changes brought about by climate change, that rather than spending funds on drought relief programs, and social security benefits, the Government could enter into a contract with that landowner to manage their properties for biodiversity protection. With the removal of livestock, carbon storage would be increased, weeds and vertebrate pests could be controlled, and wildlife would benefit.
- 3.** Provide greater support for field officers that are charged with implementing regulations, to arrest the decline in morale that is currently evident across all relevant agencies.

We thank the Minister for this opportunity to provide input, and hope our suggestions will be taken seriously

Yours sincerely
John Edwards
(Honorary Secretary).