

Senate Inquiry into Environment Protection and Biodiversity Conservation Act (Streamlining Environmental Approvals) Bill 2020

SUBMISSION To: Senate Inquiry into Environment Protection and Biodiversity Conservation Act (Streamlining Environmental Approvals) Bill 2020

By: Sustainable Living Armidale's Wildlife Habitat Group, Armidale NSW

We thank you for the opportunity to contribute to this important debate.

Sustainable Living Armidale (SLA) is a grassroots volunteer community group in the New England region of northern New South Wales. SLA aims to raise awareness of the implications of climate change and the depletion of natural resources, to build networks, and inspire and empower our community to build a more self-reliant, resilient and sustainable future. Wildlife Habitat Group (WHG) is an action group within SLA; the focus of which is to work with all relevant bodies – at local, State and Federal levels – to inform and educate the community about the importance of our native fauna and flora as pressure increases through climate change and land-clearing for housing and agriculture.

As the Commonwealth Government is yet to release the final report of the independent statutory review of the EPBC Act, which was handed to it in October 2020 by Professor Graeme Samuel AO to which WHG made the submission (Addendum) WHG regards this pre-emptive attempt to shape legislation as ill-advised especially given the complexity of the issue which involves every state and territory government and their various planning, assessment and conservation legislative frameworks. Rather than devolving responsibilities to the states and territories, WHG observes 'The Commonwealth has the constitutional authority and national co-ordinating capacity to take a stronger lead' - and it is precisely this conclusion that we urge the Inquiry to adopt.

WHG draws the attention of the Inquiry to the findings of the Australian National Audit Office on the 25 June 2020 ([Referrals, Assessments and Approvals of Controlled Actions under the Environment Protection and Biodiversity Conservation Act 1999](#) see [here](#)). In essence the findings, that the federal government's administration of the EPBC Act was neither effective nor efficient, are an indictment of the Government and its failure to protect the environment for future generations, to mitigate the effects of climate change and to pay heed to the precautionary principle. The proposed Bill is an abrogation of its responsibilities on the part of the federal government which will weaken national environmental protections in Australia.

This Bill will enable the federal government to devolve its powers to protect matters of national environmental significance, such as threatened species, world heritage areas and water resources, to the states and territories governments. The government of New South Wales has shown itself unwilling act to protect even the iconic koala populations which have been devastated by bushfire and the effects of climate change. Such a step can only exacerbate our growing extinction crisis.

WHG urges the Inquiry to recommend the government withdraws this Bill, releases the findings of the independent statutory review and prepares a complete reform package that addresses the decline of our biodiversity and protects Australia's incredible natural and cultural heritage; a package which strengthens federal government safeguards in the protection of water resources, enforces the highest national environmental standards, establishes a national regulator and provides transparency and accountability in decision making

Elizabeth O'Hara

On behalf of Wildlife Habitat Group,

Sustainable Living Armidale

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Addendum: SUBMISSION To: 2019-2020 Independent Review of the Commonwealth *Environmental Protection & Biodiversity Conservation Act* (EPBC Act)

By: Sustainable Living Armidale's Wildlife Habitat Group, Armidale NSW

Dear Professor Samuel and Independent Review Panel,

The Covid-19 emergency has demonstrated the Commonwealth's ability to heed the advice of scientists, rally the States and Territories, take timely and decisive action, and co-ordinate and resource an effective response across the whole nation, on behalf of its namesake, the *common weal*. The perils of environmental decline and biodiversity collapse are slower moving and more cryptic, but no less disastrous. To that end, we would like to make a submission to the 2019-2020 Independent Review of the EPBC Act.

We would like to address the following general and specific questions in your discussion paper:

General questions:

- Is the EPBC Act delivering what was intended in an efficient and effective manner?
- Is the EPBC Act sufficient to address future challenges? Why?

Specific questions:

- Q 9: Role of the Commonwealth
- Q 11: Greater focus on restoration; incentives for proactive protection
- Q 16: Landscape-scale action vs species-specific protections
- Q 23: New environmental markets; and Q 8: Regulating outcomes
- Q 26: Principles to Guide Future Reform – Principle 5 – Supporting partnerships, economic opportunity, investment and jobs; and Principle 6 – Streamlining and integrating planning

OUR CONNECTION TO NATURE

Sustainable Living Armidale (SLA) is a grassroots volunteer community group in the New England region of northern New South Wales. Our region benefits from a magnificent natural environment with some of the most scenic national parks in the State nearby. We appreciate those species and ecosystems that are well or partly conserved in these reserves. Extensive areas of our region have been largely cleared or greatly altered for agriculture and other uses, including Armidale's urban uses. The species and ecosystems that naturally occurred on these lands tended to be different, such as grassy woodlands that are poorly conserved. We value the remnants of these ecosystems, promote care for them and seek ways to increase habitats for the species that struggle to maintain viable populations. We encourage families to develop connections to nature. As a rural region economically dependent on agriculture and nature-

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based industries, we know too well the effects of the unprecedented drought and bushfires in 2019 on humans and wildlife.

SLA aims to raise awareness of the implications of climate change and the depletion of natural resources, to build networks, and inspire and empower our community to build a more self-reliant, resilient and sustainable future. SLA is structured as a collection of *action groups*, each with a specific focus, and the Wildlife Habitat action group is making this submission.

KOALAS AS OUR SPECIAL FOCUS

The Wildlife Habitat Group (WHG) comprises dedicated volunteers with a passion for preserving wildlife habitat who meet regularly to learn, discuss and plan for wildlife habitat. Initially, this focussed on koalas as an iconic species in the urban and peri-urban areas of Armidale and more broadly across the Armidale Regional Council area. We are equally concerned about many other declining woodland species, and hope that focussing our limited resources on promoting koala habitat protection will concurrently assist survival of many other species. WHG now extends to our friends in the neighbouring Uralla Shire Council as well. We are fortunate to be able to draw on much expertise in our region, including landholders, wildlife rescuers, professional ecologists and educators, current and retired government officers, and wildlife researchers at the University of New England (UNE).



Photo: WHG members in the Angophora Reserve for one of their regular meetings. The reserve is an urban nature space in Armidale named for its beautiful rough-barked native apple trees (*Angophora floribunda*) and is regularly visited by humans and koalas.

As pressure increases on native populations through climate change and land-clearing for housing and agriculture, WHG aims to work with all relevant bodies – at local, State and Federal levels – to inform and educate the community about the importance of our native fauna and flora. At the local level, we support strategies such as the local council's register of koala sightings and the development of a regional Koala Plan of Management. But obviously these activities do not occur in a vacuum. For our efforts to have maximum effect, they need to be supported in a coherent framework that extends all the way up to the national level –

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and beyond, given the purpose of the EPBC Act is to facilitate Australia's compliance with our obligations under international conservation conventions.

Even before the severe drought and bushfires of last year, koalas were recognised under NSW and Commonwealth legislation as threatened species. To the east of us, on the north coast of NSW, koalas are threatened by habitat loss from urban development and are killed in large numbers by dogs and cars. To the west of us, the famous inland populations around Gunnedah on the north-west slopes of NSW – once known as the 'Koala Capital of the World' – have been declining rapidly because of land clearing, drought and extreme heat. All populations are threatened by fire and disease.

The Northern Tablelands hosts several large koala populations, which are becoming more important as koala numbers plummet elsewhere. Efforts to monitor and protect koalas, particularly around Armidale have been carried out by a partnership between local consultants, State Government, UNE, Landcare, Wildlife Carers, Armidale Regional Council and NSW Local Land Services.

RESPONDING TO YOUR QUESTIONS

General questions:

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

Given the conclusions in many expert reports since the last major review of the EPBC Act – including the most recent national State of the Environment report (2016), Australia's latest (fifth) National Report to the International Convention on Biological Diversity (CBD) (2014), and the 2017 Scientific Consensus Statement on the Great Barrier Reef – the answer must be – No – the Act is not delivering what was intended.

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

Again, the answer must be – No – given that the Act does not seem adequate for the present task and the expert projections for the future suggests things will only get more difficult, due to the latent effects of historical degradation already in train, unrelenting population and development pressures, and the all-encompassing influence of climate change. (See for example the projections modelled by CSIRO and the Commonwealth Government's climate change projections for Australia's NRM regions –

<https://www.csiro.au/en/Research/OandA/Areas/Assessing-our-climate/State-of-the-Climate-2018/Future-climate> ; and <https://www.climatechangeinaustralia.gov.au/en/climate-projections/about/>).

Specific questions:

Q 9: Role of the Commonwealth

The Commonwealth has the constitutional authority and national co-ordinating capacity to take a stronger lead. The fiscal imbalance and more limited taxing powers of the States compared with the Commonwealth gives the Commonwealth unique power and responsibility. States will almost always favour large-scale economic developments over conservation, because the royalties and other funds from such developments provide the

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States with one of their only independent sources of revenue. We have seen this play out in northern NSW, placing increased strain on vital biodiversity refuges such as the Pilliga Forests to our west. The Commonwealth should step-up and support the States and Territories to prioritise conservation of biodiversity.

Q 11: Greater focus on restoration; incentives for proactive protection

Restoration to restore landscape connectivity has long been highlighted by ecologists as essential for species that must travel to maintain viable populations. In our own experience, koalas must explore large territories to find mates, prevent in-breeding, find food and water in droughts, and escape hot summer temperatures beyond their tolerances. Unfortunately for koalas, ours is a highly fragmented landscape. Restoration – by assisting ecosystem remnants to regenerate and reducing threats such as weeds, and replacing missing species and habitat elements if necessary – is also essential to arrest the decline of many species. Many local groups and landholders are working to restore connectivity across the wider landscape but it takes many years and much time and money to make small improvements, then decades for habitats to grow. Capacity to restore the diverse habitats needed by the many species at risk depends on availability of appropriate seeds, viable nursery and regeneration businesses with skilled practitioners, as well as willingness of land owners to participate and contribute time and funds. The number of native nurseries in our region has declined and most seed of most species is unavailable. Therefore, a focus on restoration is welcome with one crucial proviso. Restoration must be placed in context with relatively intact conservation areas. Restoration cannot be progressed to the disadvantage of our publicly and privately managed conservation lands and reserves, since the latter are the refuges for the precious species we would aim to repopulate in restored areas.

We are alarmed by the ongoing clearing of habitats, sometimes involving extensive areas, and the potential of this to increase the number of species at risk. Many land holders are willing to be stewards protecting habitats but need substantial assistance to do so effectively (e.g. for weed and pest animal control by people skilled in careful bushland work). Others may view land not from the perspective of a steward but as an investor, as a capital investment that owes them a financial return, such that they will only be willing to protect its natural values if they are paid so much to do so that this gives the best return. We do not accept that individuals of our species have a right to put other species at risk – we must all share in stewardship. While public funds should be spent supporting protection by owners of land with habitat values, this should not be seen as replacing strong Commonwealth protection via the EPBC Act. Funds will be most effectively spent promoting adoption of a stewardship ethic and assisting protection by many willing stewards, as well as on effective implementation of regulatory controls. The NSW Government's approach of weakening controls on clearing for agriculture while allocating once-off funding to protection of koala habitat on quite small areas of private land should not be followed.

Q 16: Landscape-scale action vs species-specific protections

As intimated above, in our experience of koala population dynamics in the New England region, koalas need to range over a wide area to maintain viable populations. Obviously, then landscape-scale action is required for their conservation. However, the two approaches are not invariably in conflict. We need to bring communities along in the conservation journey

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and the iconic status of koalas – as seen in the heartening response to the distress of koalas devastated by the recent bushfires – makes them an ideal partner in generating community understanding and support. Importantly, conservation of koala habitat and improving landscape connectivity to allow their movement concurrently creates benefits for a range of other native species, as well as myriad benefits for humans, including for sustainable agriculture, local employment, nature-based tourism, mental health, and childhood development. Koalas should be used as a stepping stone in developing community support for protecting and restoring habitats and connectivity for whole communities of species. Plantings should not focus on koala food trees at the expense of other species. Some species will require specific protections. Protection of rare or threatened ecological *communities*, such as the grassy woodlands of the Armidale area, is an efficient way to protect many species including those that are poorly known, so more emphasis could be placed on this.

Q 23: New environmental markets; and Q 8: Regulating outcomes

It seems self-evidently good to institute financial mechanisms that ensure adequate funds for biodiversity conservation, and that leverage – to the most efficient extent possible – the significant investment of time, money, effort and goodwill of farmers, other rural landholders, Aboriginal custodians, volunteers, public agencies, community groups, and philanthropists. Commercial arrangements that reward good environmental performance and sanction bad performance can assist immensely, especially where government funding looks increasingly constrained by the Covid-19 emergency. A consistent and persistent funding stream would provide the certainty and stability needed to encourage ongoing investment and action for the long-term. However, ultimately the efficacy of markets in delivering conservation results is only as good as the incentives and integrity mechanisms that drive the market and hold it to account. In this regard, the government remains the chief champion of the public interest.

One of our members participated in the recent NSW Government tender-based approach to allocating funding for koala habitat protection on private land. She says it did not apply either ecological or market principles well, because the one-off tender did not allow any market transparency and the efficiency of selecting and protecting sites that could protect many other species concurrently was not a criterion – only koala habitat counted. The Commonwealth should not allow ideological preferences for market-based approaches, or focus on iconic species, to outweigh the public interest in open, transparent, efficient approaches that can be most effective for long-term conservation of all species through our difficult time of climate change.

Offset markets in particular need very careful design and scrutiny to ensure conservation principles are transparently prioritised. Regulating for conservation outcomes will be vital to ensure credibility and legitimacy of new markets.

Q 26: Principles to Guide Future Reform – Principle 5 – Supporting partnerships, economic opportunity, investment and jobs

Rural areas such as northern NSW have been hard hit by drought, bushfires, and the relentless cost-price squeeze on the farming sectors. And yet these communities show an inspiring capacity for action and endurance. Koalas are arguably *the* most beloved Australian native animal, not only to Australians, but the whole world. The trends observed by scientists

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about the increasingly important role of the cooler tablelands in saving koalas in the long-term confer on us a unique responsibility, challenge and opportunity, but we can't shoulder it alone, without the necessary funds and support. Awareness of the need for a circular economy that places a high emphasis on the environment has never been higher than in the young people in our community, but they need rewarding employment to stay in our region. Compared with most other parts of NSW, our communities have a higher proportion of Aboriginal people, and they are eager for paid employment that gives them opportunities and practical ways to re-connect and care for country. The connection between conservation, economic prosperity, and green jobs has never been more compelling.

Principle 6 – Streamlining and integrating planning

Our role as a grassroots, volunteer-based community group necessitates a good working relationship with our local councils (Armidale and Uralla). This relationship gives us first-hand experience of the pressures facing rural local governments with relatively small rate bases, large geographic areas to service, and a dispersed population. Complex, incoherent, and inconsistent planning rules allow ambiguous spaces for rogue developers, and obstacles and transaction costs for good developers. This does not help our local councils look at planning and development questions with a long-term view, for example by incorporating green urban spaces into the planning matrix well ahead of land becoming available for subdivision and development projects. The Commonwealth's unique roles mentioned above in co-ordinating and funding good environmental practice percolates to every level, right down to local government.

Thank you for the opportunity to make this submission.

Yours sincerely,

Members of the Wildlife Habitat Group,

Sustainable Living Armidale

Armidale, NSW

<https://slarmidale.org/habitat>