

Governance issues

Introduction

- 7.1 The Committee was asked to assess whether current governance arrangements are well placed to deal with the challenges of conserving biodiversity in a changing climate.
- 7.2 Australia has a complex system of environmental governance, with national, state and local government policies, strategies and legislation in place. The Committee specifically looked at governance measures related to biodiversity conservation and the issues surrounding those measures.
- 7.3 The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) is Australia's principal piece of environmental legislation, providing a framework to protect and manage matters of national environmental significance.
- 7.4 Some of the policies and strategies in place that impact on biodiversity conservation include:
- Australia's Biodiversity Conservation Strategy 2010-2030
 - Australia's Strategy for the National Reserve System 2009-2030
 - Australian Pest Animal Strategy 2007
 - Australian Weeds Strategy 2007
 - Caring for our Country
 - state and territory biodiversity strategies.
- 7.5 Several governance issues have been discussed in previous chapters, specifically in relation to connectivity conservation, climate change adaptation strategies and natural resource management. This chapter will focus on the discussion and reactions surrounding the proposed changes to the EPBC Act; the current and required governance to manage invasive

species; Australia's obligations under various international biodiversity and climate change instruments; and cross-border management systems for national heritage places such as the Australian Alps and integrated forest management. In this chapter, conclusions and recommendations are made regarding all of these issues.

Environment Protection and Biodiversity Conservation Act

Outline of the EPBC Act

- 7.6 As stated above, the EPBC Act is Australia's principal piece of environmental legislation, providing a framework to protect and manage the eight matters of national environmental significance, namely:
- world heritage sites, including the Great Barrier Reef, Kakadu National Park, the Wet Tropics of Queensland and the Tasmanian Wilderness
 - national heritage places, including the Australian Alps National Parks and Reserves – Kosciuszko National Park
 - wetlands of international importance ('Ramsar' wetlands), including the Coorong and Lakes Alexandrina and Albert wetland in South Australia, Western Port in Victoria and Kakadu National Park
 - nationally threatened species and ecological communities, including the critically endangered orange-bellied parrot and the endangered mountain pygmy-possum
 - migratory species, including the curlew sandpiper, red-necked stint and eastern curlew
 - Commonwealth marine areas, that is any part of the sea that is within the exclusive economic zone or over the continental shelf, that is not part of state or Northern Territory waters
 - the Great Barrier Reef Marine Park
 - nuclear actions.

Evolution of proposed changes to the EPBC Act

- 7.7 On 31 October 2008, the Minister for the Environment, Heritage and the Arts commissioned an independent review of the EPBC Act, which was required to be undertaken within the first ten years of the commencement of the Act, pursuant to s. 522A.

- 7.8 In March 2009, the Senate Standing Committee on Environment, Communications and the Arts published its first report into the operation of the EPBC Act, with its second report published in April 2009.
- 7.9 On 29 June 2009, Dr Allan Hawke released the interim report of his independent review of the EPBC Act which identified the major themes for the review.
- 7.10 On 30 October 2009, Dr Allan Hawke delivered the final report of his independent review of the EPBC Act to government and the report was publicly released on 21 December 2009.
- 7.11 On 24 August 2011, the Minister for Sustainability, Environment, Water, Population and Communities released the Australian Government response to the Hawke review. At the same time, the Minister announced a national environment law reform package, with 12 key elements (including proposed changes to the EPBC Act), including:
- a more streamlined assessment process
 - new national standards for accrediting environmental assessment and approval processes
 - a new biodiversity policy for consultation, to deliver a more integrated approach to biodiversity conservation in a changing climate
 - improving the listing of species for protection by creating a single national list of threatened species and ecological communities
 - identifying and protecting ecosystems of national significance (as a new matter of national environmental significance), through regional environment plans, strategic assessments or conservation agreements.
- 7.12 Also in August 2011, the Council of Australian Governments (COAG) agreed to a national reform agenda on environment regulation, that included:
- creating more effective environmental assessment and approval processes, and developing national standards
 - developing a national threatened species list to reduce duplication and increase business certainty.
- 7.13 In September 2011, the Australian Government released its response to the Senate Standing Committee on Environment, Communications and the Arts' reports on the operations of the EPBC Act.
- 7.14 At the 13 April 2012 COAG meeting, it was agreed that governments would work together to develop bilateral agreements allowing the Australian Government to accredit state and territory assessment and approval processes.

- 7.15 On 8 June 2012, the Statement of Environmental and Assurance Outcomes was released.
- 7.16 In July 2012, the draft Framework of Standards for Accreditation of Environmental Approvals under the EPBC Act was provided to state and territory governments, and publicly released on 2 November 2012. This document was used as the basis for preliminary discussions for the development of bilateral agreements. These discussions identified challenges with the approach. According to Dr Kimberley Dripps, Deputy Secretary of the Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC), at a Senate Committee hearing in February 2013, the Department was not progressing with approval bilateral agreements at that time.¹
- 7.17 At the 7 December 2012 COAG meeting, it was agreed that governments would work to eliminate duplication, avoid delayed approval processes, and utilise common information requirements for regulatory processes.

Bilateral agreements

- 7.18 The main issues in evidence received about changes to the EPBC Act concern the proposed new national standards for accrediting environmental assessment and approval processes, and thereby changes to bilateral agreements between the Commonwealth and state and territory governments.

Current arrangements

- 7.19 Bilateral agreements allow the Commonwealth to delegate to the states/territories the responsibility for granting environmental assessments and approvals under the EPBC Act. In order to be accredited, a state/territory process will need to meet 'best practice' criteria.
- 7.20 The EPBC Act currently provides for bilateral agreements that:
- protect the environment
 - promote the conservation and ecologically sustainable use of natural resources
 - ensure an efficient, timely and effective process for environmental assessment and approval of actions

1 Department of Sustainability, Environment, Water, Population and Communities (DSEWPAC), 'Reform of the Environment Protection and Biodiversity Conservation Act', <<http://www.environment.gov.au/epbc/reform/index.html>> viewed 8 February 2012; Dr Kimberley Dripps, DSEWPAC, Senate Environment and Communications References Committee Inquiry into the EPBC Amendment (Retaining Federal Approval Powers) Bill 2012 *Transcript of evidence*, 15 February 2013, p. 56.

- minimise duplication in the environmental assessment and approval process through Commonwealth accreditation of the processes of the state or territory (and vice versa).²

7.21 If a bilateral assessment of a proposed action is undertaken through an accredited state/territory process then the Minister still needs to give final approval of the proposed action under the EPBC Act. If a bilateral approval of a proposed action, pursuant to a management plan, is undertaken through an accredited state/territory process then there is no further requirement for approval by the Minister under the EPBC Act.

Concerns raised about proposed changes

7.22 Many inquiry participants were concerned that the proposed changes might give states/territories automatic accreditation, even though assessment and approval processes may not be up to the standard required by the Commonwealth legislation. Ms Christine Goonrey, President of the National Parks Australia Council (NPAC) explained that:

One of the biggest concerns is that it is pointing towards a devolution of decision making towards state agencies, and that is where our members are seeing a real return to anti-environmental values. There are a number of state jurisdictions which see very great political advantage in downplaying environmental values and the protection of biodiversity. So to have the EPBC Act actually take that backward step is deeply concerning to a large range of environmental organisations.³

7.23 Ms Goonrey was also concerned that there is currently no room for community involvement in approvals processes.⁴

7.24 Ms Nicola Rivers of the Environmental Defenders' Office Victoria expressed concerns with the proposed changes to the EPBC Act, specifically with the Commonwealth accrediting state/territory government processes to make assessments and approvals under the EPBC Act and therefore not having oversight.⁵

7.25 Another of the concerns raised was that state/territory governments are often the proponent of a development and therefore they would be

2 EPBC Act, s. 44.

3 Ms Christine Goonrey, President, National Parks Australia Council (NPAC), *Transcript of evidence*, 2 March 2012, p. 27.

4 Ms Goonrey, NPAC, *Transcript of evidence*, 2 March 2012, p. 28.

5 Ms Nicola Rivers, Law Reform Director, Environmental Defender's Office Victoria, Australian Network of Environmental Defender's Offices (ANEDO), *Transcript of evidence*, 4 May 2012, p. 8.

assessing their own developments, leading to a conflict of interest.⁶ The removal of checks and balances needed for impartial and rigorous assessment was also raised as a concern.⁷

7.26 Ms Julia Winefield, Campaign Coordinator of the Conservation Council of South Australia expressed concern about the COAG process, announced in April 2012, to have bilateral assessments and approvals ready by March 2013, and wanted to slow down the process to allow more consultation.⁸ Representatives of the Australian Network of Environmental Defender's Offices (ANEDO) stated the lack of time announced in the COAG time frame shows no intention to raise the standards of those state and territory processes, and were further concerned that the Commonwealth will not have any power to oversight individual projects.⁹

7.27 The Committee is aware of views that states and territories have lower levels of environmental protection standards than the Commonwealth, and the devolution of powers to the states and territories could increase the likelihood of further reduction of these environmental protection standards.¹⁰ Ms Elizabeth McKinnon of the Environmental Defenders' Office Victoria stated that standards in the states and territories must equal those of the Commonwealth, and that that is not the case in most states, and of the need for an EPBC standard requiring the Commonwealth not to accredit a state or territory process until satisfied it has adequate monitoring and enforcement in place.¹¹

7.28 Related concerns were expressed that devolution of powers to the states and territories may lead to competition between them for development projects, creating the potential for compromising environmental standards in order to gain revenue from projects.¹² Further:

The other huge concern there is that the EPBC Act is designed to provide protection in nationally significant environment matters

6 Ms Rivers, Environmental Defenders' Office Victoria, ANEDO, *Transcript of evidence*, 4 May 2012, p. 8; Liz Burton, *Submission 85*, p. 2; Miss Noriko Wynn, Policy and Communications Officer, Conservation Council of South Australia, *Transcript of evidence*, 17 May 2012, p. 17.

7 Liz Burton, *Submission 85*, p. 22.

8 Ms Julia Winefield, Campaign Coordinator, Conservation Council of South Australia, *Transcript of evidence*, 17 May 2012, p. 18.

9 Ms Elizabeth McKinnon and Ms Rivers, Environmental Defenders' Office Victoria, ANEDO, *Transcript of evidence*, 4 May 2012, pp. 10, 11.

10 Views were expressed by a range of inquiry participants, including from Liz Burton, *Submission 85*, p. 22.

11 Ms McKinnon, Environmental Defenders' Office Victoria, ANEDO, *Transcript of evidence*, 4 May 2012, p. 10.

12 Miss Wynn, Conservation Council of South Australia, *Transcript of evidence*, 17 May 2012, p. 17.

and in issues that are nationally important, that have a national perspective and that look at the national interest. That will now be delegated to the states and so the states will be, in effect, making decisions that are supposed to be in the national interest and looking at nationally important matters – matters that may cross borders into other states, for example. We have absolutely no confidence that a state government would take the national interest over the state's own interest.¹³

Suggested improvements to bilateral agreement process

7.29 According to ANEDO, bilateral approval agreements should not be made, but if they were, national standards and accredited state/territory processes should provide at least equivalent protection to matters of national environmental significance to that provided in the EPBC Act, suggesting many requirements be put in place for bilateral agreements. The suggested requirements included that the state/territory system being accredited must:

- improve or maintain all matters of national environmental significance
- provide a decision making framework that prevents significant environmental impacts where possible, mitigates unavoidable impacts, and offsets any impacts that will occur
- demonstrate active adaptive management in responding to emerging threats, non-compliance and public concerns
- clearly identify when considerations other than environmental impacts, for example social and economic considerations, are taken into account in decision making ...
- include timeframes and processes for meaningful public participation and input that are at least equivalent to those under the EPBC Act
- include the ability to make legally binding environmental conditions as part of project approvals
- not exclude judicial review of any decisions covered by the agreement ...
- contain a transparent and robust system of compliance monitoring to ensure project proponents are complying with project approvals and conditions, including minimum monitoring requirements that the states must meet
- contain enforcement powers at least equivalent to those under the EPBC Act to enforce breaches of approvals and conditions.¹⁴

13 Ms Rivers, Environmental Defenders' Office Victoria, ANEDO, *Transcript of evidence*, 4 May 2012, p. 9.

14 ANEDO, *Submission 57.1*, pp. [3]-[4].

7.30 ANEDO went on to suggest four principles that should apply in the case of bilateral approval agreements, namely:

- bilateral approval agreements will not apply when the State or Territory Government is the project proponent or major supporter of the project or stands to directly financially benefit from the project
- finalisation of bilateral approval agreements will be based on whether the State or Territory meets the national standard as set out in regulations, rather than on meeting artificial timelines (such as the March 2013 date proposed by COAG) ... This may include the need for the State or Territory to make legislative amendments
- the Commonwealth will retain the right to 'call in' the project for a separate Federal assessment and/or approval if it does not think the State has adequately assessed the project according to the bilateral agreement. (This is currently the case for assessment bilaterals and should be retained for approval bilaterals)
- include in the EPBC Act a requirement that bilateral approval agreements will be monitored by the Commonwealth and regular performance audits will be conducted to ensure that States are complying with bilateral agreements. An independent 'Commonwealth Environment Commission' should be established for this role. The Commonwealth must [be] prepared to terminate the agreement if States are not complying with it.¹⁵

7.31 The Urban Development Institute of Australia stated that a lack of coordination between the Commonwealth and state/territory governments often leads to significant delays, impacting upon land supply and increased costs affecting the level of affordable housing.¹⁶ The Institute supported the need to minimise the duplication of processes through strategic assessments and bilateral agreements by establishing processes enabling 'single strategic assessments' to occur prior to urban rezoning, thereby allowing developers to respond to requirements early in the development process.¹⁷

15 ANEDO, *Submission 57.1*, p. [4].

16 Urban Development Institute of Australia, *Submission 26*, p. [2].

17 Urban Development Institute of Australia, *Submission 26*, p. [2].

Governance of species and communities

Legislative effectiveness

- 7.32 The EPBC Act requires the Minister to establish a list of threatened species, a list of threatened ecological communities and a list of key threatening processes.¹⁸ Key threatening processes are those that threaten or may threaten the survival, abundance or evolutionary development of a native species or ecological community. Two invasive species listed as key threatening processes include dieback caused by the root-rot fungus *phytophthora cinnamomi* and invasion of northern Australia by gamba grass and other introduced grasses. Another listed key threatening process is the loss of climatic habitat caused by anthropogenic emissions of greenhouse gases.
- 7.33 The Committee received evidence that raised concerns about proposed changes to the EPBC Act related to the identification and listing of threatened species and ecological communities. ANEDO suggested that the EPBC Act needs to protect species and their habitats in anticipation of them becoming threatened or endangered.¹⁹ Many submitters were supportive of the premise of introducing protections for 'ecosystems of national importance', but one inquiry participant was concerned about the restricted nature in how they will be put forward and the little opportunity afforded for community input into the process.²⁰
- 7.34 The Senate Environment, Communications and the Arts Committee, in its first report on the operations of the EPBC Act published in March 2009, recommended that the process for nomination and listing of threatened species and ecological communities be amended to improve transparency, rigour and timeliness.²¹ The Australian Government responded to this recommendation in September 2011 by agreeing to establish a single list of nationally threatened species and ecological communities, working with state and territory governments to create a harmonised listing process, and agreeing to publicly release the advice of the relevant scientific advisory committee on decisions to list or not list a threatened species or ecological community.²²

18 EPBC Act, ss. 178, 181, 183.

19 Ms McKinnon, Environmental Defenders' Office Victoria, ANEDO, *Transcript of evidence*, 4 May 2012, p. 9; ANEDO, *Submission 57*, p. 16.

20 Miss Wynn, Conservation Council of South Australia, *Transcript of evidence*, 17 May 2012, p. 17.

21 Senate Standing Committee on Environment, Communications and the Arts, *The operation of the Environment Protection and Biodiversity Conservation Act 1999*, Canberra, March 2009, p. x.

22 Australian Government, Response to the Senate Standing Committee on Environment, Communications and the Arts Committee Report: *Operations of the Environment Protection and*

- 7.35 Threat abatement programs provide for actions necessary to reduce the impact of listed key threatening processes under the EPBC Act on native species and ecological communities. At a national level, the 2011 State of the Environment (SOE) report stated that cross-tenure delivery of threat abatement programs is necessary for landscape-scale approaches, and a sound understanding of the target species and communities is needed to be able to design and evaluate threat abatement programs.²³
- 7.36 In the 2008 Assessment of Australia's terrestrial biodiversity, it was found that data on invasive species is poor nationally and there are major gaps in our understanding of the impacts of invasive species and pathogens on biodiversity.²⁴ In relation to invasive species and pathogens, the 2011 SOE report, quoting the 2008 Assessment of Australia's terrestrial biodiversity, stated the following:
- ... [there is] a lack of effective and systematic monitoring systems for evaluation and limited resources invested in responses to threats compared with the scale and nature of the threats. The scale of the impacts from threatening processes is such that the voluntary and uncoordinated approaches adopted to date will not be effective.²⁵
- 7.37 The 2011 SOE report stated that it was difficult to assess the effectiveness of management of invasive species and pathogens from state and territory SOE reports because of a lack of reporting on the effectiveness of processes or on outputs or outcomes.²⁶
- 7.38 The 2011 SOE report also stated that there are no institutions that conduct ongoing assessments of the impacts of weeds on biodiversity, and that the measures adopted to understand the invasion of weeds are not at the level required to plan strategies to mitigate the problems they create.²⁷ Professor

Biodiversity Conservation Act 1999 (First, Second and Final Reports), Canberra, September 2011, p. 5.

23 State of the Environment 2011 Committee, *Australia State of the Environment 2011: An independent report presented to the Australian Government Minister for Sustainability, Environment, Water, Population and Communities*, DSEWPAC, Canberra, 2011, p. 659.

24 State of the Environment 2011 Committee, *Australia State of the Environment 2011: An independent report presented to the Australian Government Minister for Sustainability, Environment, Water, Population and Communities*, DSEWPAC, Canberra, 2011, pp. 634, 638.

25 State of the Environment 2011 Committee, *Australia State of the Environment 2011: An independent report presented to the Australian Government Minister for Sustainability, Environment, Water, Population and Communities*, DSEWPAC, Canberra, 2011, p. 656.

26 State of the Environment 2011 Committee, *Australia State of the Environment 2011: An independent report presented to the Australian Government Minister for Sustainability, Environment, Water, Population and Communities*, DSEWPAC, Canberra, 2011, p. 656.

27 State of the Environment 2011 Committee, *Australia State of the Environment 2011: An independent report presented to the Australian Government Minister for Sustainability, Environment, Water, Population and Communities*, DSEWPAC, Canberra, 2011, pp. 633, 636.

Kristine French, President of the Ecological Society of Australia stated that there is a research gap in the response of weeds and their interaction with climate change.²⁸

Threatened species and translocation

- 7.39 The Committee heard about the potential for using translocations of threatened species in future, as part of the armoury for combating the effects of climate change on biodiversity and on threatened species in particular. The Committee understands that Australia needs regulations which allow the active movement of species to new places, particularly for iconic species.
- 7.40 The Committee notes that regulatory issues will need attention especially in light of the National Wildlife Corridors Plan and increasing number of large-scale wildlife corridors operating across state and territory borders (as discussed in chapter four).
- 7.41 The Committee heard from the Commonwealth Scientific and Industrial Research Organisation (CSIRO) about some of the challenges associated with translocation across state borders and that governance impediments need to be removed in order to develop a comprehensive, adaptive response to climate change. Dr Craig James of CSIRO indicated that once a decision is made to keep a species from becoming extinct the next decision concerns when to undertake its translocation for it to be successful in terms of population size of the species, in relation to climate change and the risks involved, and in order to be cost effective.²⁹ Dr James explained that translocations had been successfully used in the past, but that a lot of regulation existed relating to crossing state borders, in order not to disadvantage the new area, and taking into account acts and regulations already in place.³⁰
- 7.42 The Committee heard from the Western Australian Local Government Association that a 'lack of information and a time consuming process mean species are not protected as quickly as possible and listing is usually done as a result of reactive pressures'.³¹ Dr James stated that legislation around threatened species requires that every listed species gets a management plan, which does not take into account the sorts of

28 Professor Kristine French, President, Ecological Society of Australia, *Transcript of evidence*, 28 March 2012, p. 17.

29 Dr Craig James, Research Theme Leader, Building Resilient Australian Biodiversity Assets, Commonwealth Scientific and Industrial Research Organisation (CSIRO), *Transcript of evidence*, 16 August 2012, p. 3.

30 Dr James, CSIRO, *Transcript of evidence*, 16 August 2012, p. 5.

31 Western Australian Local Government Association, *Submission 37*, p. 10.

mechanisms that might be needed to manage species into the future, as the climate changes.³²

- 7.43 The Committee heard that management options available include genetic translocation and assisted migration, neither of which have been well examined but will have to be used in future.³³ Dr Ben Phillips, Senior Research Fellow at the Centre for Tropical Biodiversity and Climate Change, suggested that the Australian Research Council (ARC) could be responsible for funding research in these areas.³⁴

Biosecurity considerations

- 7.44 The Australian Quarantine and Inspection Service (AQIS) manages quarantine controls at Australia's borders, to minimise the risk of exotic pests and diseases entering the country. The Committee heard that biosecurity risk assessments for invasive species will need to be developed to take account of climate change.³⁵ In its second interim report the Committee commented on 'the importance of cooperation between all levels of government towards a national quarantine system which may limit the spread of diseases and invasive weeds in the future.'³⁶
- 7.45 On 18 December 2008, the Australian Government released the report of an independent review of Australia's quarantine and biosecurity arrangements (the Beale review). The report recommended:
- the need for improved partnerships with states/territories and with industry
 - improved governance, including an independent commission to assess biosecurity risks of imports
 - a national authority to undertake biosecurity operations, and an Inspector-General to audit the authority
 - new biosecurity legislation to replace the *Quarantine Act 1908* (Cth)

32 Dr James, CSIRO, *Transcript of evidence*, 16 August 2012, p. 5.

33 Dr Ben Phillips, Senior Research Fellow, Centre for Tropical Biodiversity and Climate Change, *Transcript of evidence*, 5 July 2012, p. 4.

34 Dr Phillips, Centre for Tropical Biodiversity and Climate Change, *Transcript of evidence*, 5 July 2012, p. 4.

35 CSIRO, *Submission 23*, p. 15.

36 House of Representatives Standing Committee on Climate Change, Environment and the Arts (CCEA Committee), *Case studies on biodiversity conservation: volume 2*, November 2012, pp. 60-61.

- more funding for biosecurity activities and upgraded information technology systems.³⁷
- 7.46 On 29 November 2012, the Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012 were introduced in the Senate, and referred to the Senate Rural and Regional Affairs and Transport Committee for report by 27 February 2013 (extension granted to 24 June 2013).
- 7.47 The Invasive Species Council (ISC) stated that biosecurity legislation must focus on: prevention of unsafe introductions (deliberate and accidental); eradication and containment of new and emerging invaders; and control of entrenched, threatening invaders.³⁸
- 7.48 According to Mr Andrew Cox, President of the ISC, the main driver of the spread of invasive species is rapid transport, from air and road travel, to trade and tourism.³⁹ According to Professor Ary Hoffman from the University of Melbourne, the cheapest way to solve invasive species problems is 'to keep the things out in the first place'.⁴⁰ ISC described the need to control the introduction of invasive species, stopping them from entering the country, or moving into a suitable habitat, in order to keep management costs low.⁴¹
- 7.49 The 2011 SOE report stated that quarantine and preventive procedures in place in Western Australia have excluded some invasive species present in other states.⁴²
- 7.50 The Committee heard evidence about the need to identify invasive species very early on when they are introduced, the first job being to identify which are invasive species and which are undescribed native species. The Australian Museum recommended the need to develop appropriate species identification systems, tools and skills for early marine pest detection, with technologies for rapid species identification, such as DNA barcoding, warranting particular attention.⁴³ Dr Patricia Hutchings, Senior Principal Research Scientist from the Australian Museum, went on to discuss her work as part of a committee, looking at how quarantine,

37 Mr R. Beale, Dr J. Fairbrother, Mr A. Inglis and Mr D. Trebeck, *One Biosecurity, A working partnership: The independent review of Australia's quarantine and biosecurity arrangements report to the Australian Government*, Commonwealth of Australia, Canberra, 2008.

38 Invasive Species Council (ISC), *Submission 60*, p. 10.

39 Mr Andrew Cox, President, ISC, *Transcript of evidence*, 21 June 2012, p. 6.

40 Professor Ary Hoffman, University of Melbourne, *Transcript of evidence*, 2 March 2012, p. 21.

41 Mr Cox, ISC, *Transcript of evidence*, 21 June 2012, p. 7.

42 State of the Environment 2011 Committee, *Australia State of the Environment 2011: An independent report presented to the Australian Government Minister for Sustainability, Environment, Water, Population and Communities*, DSEWPAC, Canberra, 2011, p. 659.

43 Australian Museum, *Submission 27*, p. 4; Dr Patricia Hutchings, Senior Principal Research Scientist, Australian Museum, *Transcript of evidence*, 28 March 2012, p. 4.

fisheries and port authorities officers can identify new arrivals of invasive species, and prevent them from entering the country.⁴⁴ Dr Hutchings stated that:

We are going to be looking at using both morphological and molecular data so that the people out there on the ground can actually say, 'I've never seen that species before.' We are going to have a register of where to send it and within two or three days we are going to get identification to say whether that is an introduced species or whether it is on that list.⁴⁵

- 7.51 The Committee heard that Indigenous ranger groups perform many land management roles, including quarantine patrols and weed control, burning and feral animal control, and need security of resources to continue that work.⁴⁶ Dr Alaric Fisher from the Northern Territory Department of Natural Resources, Environment, the Arts and Sport further stated that AQIS have relationships with Indigenous ranger groups to undertake quarantine activities, including looking out for feral animals as early indicators of invasive diseases and pathogens.⁴⁷
- 7.52 Dr Fisher stated that one of the major biodiversity values in the Northern Territory is its islands to the north, and that protecting them from the spread of invasive species is a key conservation strategy.⁴⁸
- 7.53 NPAC stated that feral pests and diseases do not end at state borders but planning and management practices do, and that managers of protected areas need to be able to develop and implement strategies that work across borders.⁴⁹
- 7.54 Mr Cox stated that a risk management approach should be adopted for all plants, and stated the need to undertake a risk assessment of the 30 000 listed approved species, with efforts made to remove those determined to be high risk plants.⁵⁰ Mr Cox indicated that the Western Australian Government had costed the project.⁵¹

44 Dr Hutchings, Australian Museum, *Transcript of evidence*, 28 March 2012, p. 4.

45 Dr Hutchings, Australian Museum, *Transcript of evidence*, 28 March 2012, p. 4.

46 Dr Alaric Fisher, Executive Director, Biodiversity Conservation, Department of Natural Resources, Environment, the Arts and Sport (Northern Territory), *Transcript of evidence*, 4 July 2012, p. 5.

47 Dr Fisher, Department of Natural Resources, Environment, the Arts and Sport (Northern Territory), *Transcript of evidence*, 4 July 2012, p. 6.

48 Dr Fisher, Department of Natural Resources, Environment, the Arts and Sport (Northern Territory), *Transcript of evidence*, 4 July 2012, p. 2.

49 NPAC, *Submission 18*, p. 3.

50 Mr Cox, ISC, *Transcript of evidence*, 21 June 2012, p. 7.

51 Mr Cox, ISC, *Transcript of evidence*, 21 June 2012, p. 7.

- 7.55 In relation to improving the resilience of ecosystems to withstand changes resulting from a changing environment by reducing the stress imposed by invasive species – as discussed in chapter five – the ISC advocated for stronger invasive species programs, including: enhancing the fox control programs for the alpine areas, and the need for voluntary shooters in NSW national parks as part of a feral control program, rather than a game management program.⁵²
- 7.56 Mr Cox proposed the introduction of an environmental biosecurity equivalent of Plant Health Australia and Animal Health Australia, called Environmental Health Australia, to set contingency plans for future invasions, align research priorities, and review existing laws.⁵³ Mr Doug Laing, a Member of the ISC, was also critical of the funding withdrawal for the weeds research cooperative research centre in South Australia, and stated the need to control invasive species that contribute to greenhouse gas emissions, such as the listed key threatening process and invasive species gamba grass, which emits carbon dioxide when burned, and destroys the plants that can take up carbon at other times.⁵⁴
- 7.57 Mr Cox stated the need for alignment and collaboration between the agricultural sector, some state research stations of which are still introducing invasive species and not doing risk assessments, and the environmental sector.⁵⁵

International obligations

Introduction

- 7.58 Australia is signatory to numerous international conventions which have been in development since 1972 and which, since that time, have influenced national biodiversity conservation policies. These international agreements include:
- Convention Concerning the Protection of the World Cultural and Natural Heritage (1972) (World Heritage Convention)
 - United Nations Convention on Biological Diversity (1992)
 - United Nations Framework Convention on Climate Change (1992)
 - The Convention on Wetlands of International Importance (Ramsar, Iran, 1971) (Ramsar Convention)

52 Mr Cox, ISC, and Mr Doug Laing, Member, ISC, *Transcript of evidence*, 21 June 2012, pp. 8, 12.

53 Mr Cox, ISC, *Transcript of evidence*, 21 June 2012, p. 8.

54 Mr Laing, ISC, *Transcript of evidence*, 21 June 2012, p. 9.

55 Mr Cox, ISC, *Transcript of evidence*, 21 June 2012, p. 9.

- Convention on International Trade in Endangered Species of Wild Fauna and Flora (1973)
 - Convention on the Conservation of Migratory Species of Wild Animals (Bonn, Germany, 1979) (Bonn Convention)
 - Japan-Australia Migratory Bird Agreement (1974)
 - China-Australia Migratory Bird Agreement (1986)
 - Republic of Korea-Australia Migratory Bird Agreement (2006)
- 7.59 In addition, Australia has committed to reducing greenhouse gas emissions by between 5 and 15 per cent or 25 per cent compared with 2000 levels by 2020 – formally submitted to the Copenhagen Accord in January 2010. The Australian Government has also committed to reducing emissions by 80 per cent compared with 2000 levels by 2050.

International cooperation on migratory birds

- 7.60 The Committee noted its concerns in the second interim report about the 'adequacy of international agreements for the protection of migratory bird habitats' outside Australia.⁵⁶ In addition, the Committee heard concerns from the Conservation Council of South Australia about proposed changes to the EPBC Act that would serve to wind back protections under the Bonn II list of migratory species.⁵⁷ This could have implications for Australia's international obligations under its international migratory species agreements. As mentioned, the Committee would welcome a review of the proposed changes to the EPBC Act, including any changes which may affect migratory species listing and protection.

International cooperation on research

- 7.61 Australia collaborates with several countries on environmental research projects. ARC indicated that over two thirds of biodiversity and conservation projects commencing in the years 2008-11 involved international collaboration.⁵⁸
- 7.62 The Committee heard that, since 2008, the ARC had awarded \$7.3 million in grants to 21 proposals involving taxonomy.⁵⁹ The Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE) outlined projects funded through various programs it administers which

56 CCEA Committee, *Case studies on biodiversity conservation: volume 2*, November 2012, p. 17.

57 Miss Wynn, Conservation Council of South Australia, *Transcript of evidence*, 17 May 2012, p. 17.

58 Australian Research Council, *Submission 86*, pp. [2]-[3].

59 Department of Industry, Innovation, Science, Research and Tertiary Education (DIISRTE), *Submission 87*, p. [6].

involve collection and storage of taxonomic and biodiversity data, some of which involve international collaborations:

- Atlas of Living Australia/CSIRO
- Global Biodiversity Information Facility/CSIRO
- Scientific Collections International/South Australian Museum
- Terrestrial Ecosystem Research Network/University of Queensland
- Integrated Marine Observing System/University of Tasmania
- Tropical Marine Research Facilities/Australian Institute of Marine Science
- Daintree Rainforest Observatory/James Cook University
- Hawkesbury Institute for the Environment/University of Western Sydney.⁶⁰

7.63 DIISRTE also advised of projects relating to taxonomy and collection of biodiversity data supported by DSEWPAC:

- National Environmental Research Program
- Environmental Stewardship
- Australian Collaborative Rangelands Information System
- National Biological Resources Study which is managed by DSEWPAC and provides grants for taxonomy research.⁶¹

7.64 DIISRTE also advised the Committee of ongoing collaborative involvement in the following areas:

- the Global Biodiversity Information Facility (of which Australia is a financial member), administered by CSIRO through the Atlas, encourages electronic access to biodiversity data through a network of countries and organisations
- the Integrated Marine Observing System (IMOS) is internationally recognised as best practice for collaborative research infrastructure, and the IMOS ocean portal allows marine and climate scientists, as well as other users, to discover and explore the data coming from the facilities.⁶² There is an Australia-New Zealand Arrangement on Marine Observation that is intended to 'improve knowledge of regional climate and ocean systems, effectiveness of marine resource and environmental management and enhance food security.'⁶³

60 DIISRTE, *Submission 87*, p. 4.

61 DIISRTE, *Submission 87*, p. 5.

62 DIISRTE, *Submission 87*, p. 9.

63 DIISRTE, *Submission 87*, p. 9.

- Australia is also involved in the Australia-India and Australia-China research funds on biodiversity and climate change.⁶⁴

Cross-border management

7.65 Cross-border management was discussed in the Committee's first interim report, in relation to the Australian Alps and specifically Kosciuszko National Park. The Committee highlighted the need to:

... strengthen the current cooperative arrangements to allow joint management. This would enable cross-border programs to be funded to tackle threats to biodiversity that extend across all jurisdictions, such as weeds and feral animals. There may be a role for the Commonwealth in facilitating or delivering such programs.⁶⁵

In the course of its inquiry, the Committee continued to hear observations, criticisms and proposals for change to the way in which cross-border issues are managed. Several of these are canvassed below, relating to budgets and terminology in legislation as well as a range of observations which have specific resonance for certain areas but which may also have wider applicability.

7.66 ANEDO stated that it is essential that the budgets for national park management agencies are increased.⁶⁶ Mr Matt Ruchel, a Member of NPAC, stated that national parks should be made into a matter of national environmental significance, thereby ensuring a legitimate role for the Commonwealth.⁶⁷ Mr Kevin Evans, Chief Executive Officer of the National Parks Association of NSW, advised the Committee that the federal government's involvement with the reserves system is 'in name only', as they are funded by state governments, whose 'smaller budgets allocated to deal with onground management and acquisition are getting smaller and smaller'.⁶⁸ Mr Evans also described the need for increased government funding and influence, in order to ensure that the national parks and reserves systems remain to protect biodiversity.⁶⁹

64 DIISRTE, *Submission 87*, pp. 8, 9, 16-18.

65 CCEA Committee, *Case studies on biodiversity conservation: volume 1*, May 2012, p. 41.

66 ANEDO, *Submission 57*, p. 15.

67 Ms Matt Ruchel, Member, NPAC, *Transcript of evidence*, 2 March 2012, p. 27.

68 Mr Kevin Evans, Chief Executive Officer, National Parks Association of NSW, *Transcript of evidence*, 28 March 2012, p. 26.

69 Mr Evans, National Parks Association of NSW, *Transcript of evidence*, 28 March 2012, p. 26.

- 7.67 The Committee heard about the confusion in terminology between state environment legislation and the EPBC Act, particularly in the marine environment. Mr Evans stated that the National Parks Association of NSW had advocated for COAG to try to resolve these definitional differences to reduce confusion, but that the proposals had not been adopted.⁷⁰
- 7.68 NPAC claimed that nationally consistent cross-border management systems will improve coordination of fire management activities across state boundaries, and help to review and assess long-term impacts of fire management practices with a view to adopting best practice in fire management across all jurisdictions.⁷¹
- 7.69 The Committee heard about the management of the Australian Alps National Parks, and the Memorandum of Understanding between Victoria, NSW, the ACT and the Commonwealth. Mr Roger Good, a participant in the Australian Alps Liaison Committee, stated his concern about the cross-border relationship as being:
- ... that the Alps liaison committee and the Alps interstate and Commonwealth program is not based on an agreement. It has been a wonderful example of how state and territory management agencies can work together, but it is based on a memorandum of understanding only.⁷²
- 7.70 The Research Centre for Applied Alpine Ecology stated that:
- The Australian Alps Liaison Committee is a good concept for sharing information on management but it lacks authority, scientific knowledge and funding, and does not effectively engage private and corporate bodies.⁷³
- 7.71 A special management plan for the Australian Alps was suggested, that would include scientists embedded with the people making management decisions. Professor Hoffman noted that the Great Barrier Reef management arrangements have 'excellent communication', and that the Wet Tropics of Queensland arrangements are 'starting to work really well'.⁷⁴ Professor Hoffman further stated that the Alps needed to be taken out of the hands of the state agencies and uniform guidelines to manage

70 Mr Evans, National Parks Association of NSW, *Transcript of evidence*, 28 March 2012, p. 30.

71 NPAC, *Submission 18*, p. 4.

72 Mr Roger Good, *Transcript of evidence*, 2 March 2012, p. 7.

73 Research Centre for Applied Alpine Ecology, *Submission 72*, p. 4.

74 Professor Hoffman, *Transcript of evidence*, 2 March 2012, p. 20.

the area created.⁷⁵ Professor Hoffman also stated that management needed to occur much more easily across state boundaries.⁷⁶

7.72 A model similar to that administered by the Great Barrier Reef Marine Park Authority (GBRMPA) was suggested as a good example to replicate in the Australian Alps.⁷⁷

7.73 When asked whether the Great Barrier Reef management model was transportable to other environmentally sensitive areas, Dr David Wachenfeld, Director, Ecosystem, Conservation and Sustainable Use of GBRMPA, responded:

The strength of the Great Barrier Reef Marine Park Act model is that when you look at a sensitive and iconic environmental area that is subject to multiple impacts from multiple sources that are under multiple different governments and other jurisdictions to manage, it is probably extremely helpful to have one central body that might not have direct legislative control over all the impacts but has a mandate to look after, coordinate and report on everything to do with the health of the system, and it gives you a point of focus, if you like. In answer to your question about its transportability, I think it depends on the nature of the environment. I do not necessarily mean the ecological environment but the social, political and economic environment.

...

I could imagine the model would be useful in an area where there are difficulties with a complex environment, with complex human impacts and with complex jurisdictional issues and you want a body to try to overarch all of that and bring it together.⁷⁸

Integrated forest management

7.74 The Committee is aware of the range of views regarding forest management, and the impacts on biodiversity, weed management and fire management regimes.

7.75 The Department of Agriculture, Fisheries and Forestry (DAFF) referred to research by the Australian Bureau of Agricultural and Resource

75 Professor Hoffman, *Transcript of evidence*, 2 March 2012, p. 17.

76 Professor Hoffman, *Transcript of evidence*, 2 March 2012, p. 21.

77 Professor Hoffman, *Transcript of evidence*, 2 March 2012, p. 21.

78 Dr David Wachenfeld, Director, Ecosystem, Conservation and Sustainable Use, Great Barrier Reef Marine Park Authority, *Transcript of evidence*, 12 October 2012. pp. 18-19.

Economics and Sciences which predicts that climate change will impact upon native and planted forests, wood production and investment, more strongly in some regions.⁷⁹ DAFF also noted that, since 2009, the federal and state governments have been examining the effects of climate change on the forest and wood products industry.⁸⁰ The Committee notes that evidence and possible approaches to forest management are contested by various organisations and individuals.

7.76 Ms Lorraine Bower, a spokesperson for the Australian Forests and Climate Alliance stated that the Alliance wanted to see:

... all public native forests protected by legislation from commercial logging, and for commercial logging to cease with a transition to a plantation based logging industry that is available to serve all domestic and export needs.⁸¹

7.77 The exit from native forest logging and a transition into plantations was supported by the South East Forest Rescue.⁸²

7.78 The Committee heard that overharvesting of native forests had resulted in the growth of weeds, and 'clearly linked to the emergence of a pathogen called *bell miner associated dieback* that is affecting increasingly large areas of forest by killing large standing trees'.⁸³ Mr Pepe Clarke, Chief Executive Officer of the Nature Conservation Council of NSW, further stated that there is a real opportunity to consider biodiversity and forest management together with climate change.⁸⁴

7.79 The Committee heard of the opportunity to bring fire management objectives of risk management to protect life and property, together with objectives of improving or restoring biodiversity over time and to manage threats such as invasive plants.⁸⁵ The Committee also heard from Ms Bower that 'biodiverse forests will help to make landscapes less, not more, fire prone'.⁸⁶ Ms Bower informed the Committee about the fragmented nature of the national park system:

In our forests we have a national park system but it is [a] very fragmented system. We have 9.4 million-hectares of native forests

79 Department of Agriculture, Fisheries and Forestry (DAFF), *Submission 73*, pp. 2, 12-13.

80 DAFF, *Submission 73*, p. 16.

81 Ms Lorraine Bower, Spokesperson, Australian Forests and Climate Alliance, *Transcript of evidence*, 28 March 2012, p. 9.

82 South East Forest Rescue, *Submission 39*, p. 1.

83 Mr Pepe Clarke, Chief Executive Officer, Nature Conservation Council of NSW, *Transcript of evidence*, 28 March 2012, p. 10.

84 Mr Clarke, Nature Conservation Council of NSW, *Transcript of evidence*, 28 March 2012, p. 11.

85 Mr Clarke, Nature Conservation Council of NSW, *Transcript of evidence*, 28 March 2012, p. 11.

86 Ms Bower, Australian Forests and Climate Alliance, *Transcript of evidence*, 28 March 2012, p. 8.

that are open for logging, which we obviously believe should be part of the reserve system ... We are asking for a system that is much less fragmented that allows our biodiversity to become a lot more resilient.⁸⁷

7.80 The Institute of Foresters of Australia stated the need for a national inquiry into the role and management of Australia's native forests.⁸⁸ Dr Ross Florence, an Honorary Member and Fellow of the Institute suggested that:

... we are yet to address in a comprehensive way the basic issue of the future of our native forests, in particular the role, and management, of native forests and ways in which an appropriate balance between wood production and environmental conservation might be achieved.⁸⁹

7.81 In a private briefing towards the end of the inquiry, the Committee heard about the value of integrated forest management, with the need for decision making processes which adequately take into account the role of wood production forests in conservation. Dr Florence outlined the role for an inquiry to investigate the extent to which a forestry industry is needed, and the important role to be played by national parks, which are currently under-resourced for the crucial role they perform in biodiversity conservation. Dr Florence outlined the matters that such an inquiry might address:

- the compatibility of wood production and environmental conservation within different forests and under different circumstances
- silvicultural and other management practices which effectively integrate wood production, environmental and social values
- the extent to which national conservation objectives can be met through a balanced mix of conservation reserves and production forests
- the range of economic, social, and other contributions the wood production forest can make to society
- the extent to which wildfire management will be enhanced within the wood production forest
- the formulation of an objective and transparent land use review process which takes full account of all relevant circumstances bearing on land use decisions

87 Ms Bower, Australian Forests and Climate Alliance, *Transcript of evidence*, 28 March 2012, p. 12.

88 The Institute of Foresters of Australia, *Submission 89*, p. [1].

89 The Institute of Foresters of Australia, *Submission 89*, p. [1].

- the extent to which governments will, in recognising their duty of care for the nation's forests, accept management costs beyond returns realised through commercial operations.⁹⁰

Conclusions and recommendations

Conditions for bilateral agreements

7.82 There was a high level of concern expressed about the proposed changes to the EPBC Act affecting bilateral agreements, and particularly bilateral approval processes. The Committee notes the April 2012 COAG announcement that bilateral approvals would not be progressed at the present time, but provides the following issues for consideration in the case that they are pursued at a later date:

- the Commonwealth's level of continued involvement in the assessment/approval process and the implications of 'vacating the field'
- the standards applied to state/territory processes being equivalent to that applied to the Commonwealth
- the extent of community involvement in approvals processes
- potential conflicts of interest in states/territories assessing and approving their own developments and the procedures and safeguards put in place to avoid such conflicts
- sufficient negotiation time through the COAG process to develop bilateral agreements
- potential for competing states/territories compromising environmental standards to gain revenue from developments
- ability of states/territories to make decisions in the 'national interest' and ensuring the maintenance of the Commonwealth's integrity.

7.83 The Committee reiterates its views expressed above in relation to its intention to discuss the proposed changes to the EPBC Act in relation to its assessment of whether current governance arrangements are well placed to deal with the challenges of conserving biodiversity in a changing climate. The Committee also reiterates that it would welcome the opportunity to review the EPBC Amendment Bill, in order to assess the changes made in light of the COAG announcements, and the Australian Government's reform announcements and response to the report of the Independent review of the EPBC Act.

⁹⁰ The Institute of Foresters of Australia, *Submission 89*, p. [1].

Recommendation 14

- 7.84 **The Committee recommends that the Minister refer an exposure draft of the EPBC Amendment Bill to the Committee for review prior to introduction in the Parliament.**

Governance of species

- 7.85 The Committee supports the Australian Government's agreement to move to a single national list of threatened species.
- 7.86 The Committee understands that the Senate Rural and Regional Affairs and Transport Committee is inquiring into the Biosecurity Bill 2012 and the Inspector-General of Biosecurity Bill 2012 and is expected to report by June 2013. The Committee highlights the following as important considerations to be taken into account in any biosecurity legislation:
- focus on prevention of unsafe introductions by identifying invasive species early on, with appropriate identification systems
 - biosecurity risk assessments for invasive species must be developed to take into account climate change, and be undertaken on all listed approved species in order to determine and remove high risk species
 - possibility of introducing an environmental biosecurity body to set contingency plans for future invasions, align research priorities, and review existing laws. Some of these issues may be covered by the proposed Inspector-General of Biosecurity.
- 7.87 The Committee agrees that any biosecurity legislation must provide for the active movement of species to new places. This is especially relevant in light of the increasing need to put adaptive management processes in place to combat the threatening effects of climate change on biodiversity, and in light of the National Wildlife Corridors Plan and more large-scale wildlife corridors operating across borders.

Recommendation 15

- 7.88 **The Committee recommends that the Australian Government publish a progress report on developing a single national list of threatened species as part of the changes to the EPBC Act, as well as expected future timelines.**

Cross-border management

- 7.89 The Committee agrees that nationally consistent cross-border management is vital for issues such as fire management practices and invasive species control. Assisting to create such nationally consistent cross-border management practices should be a priority for the Australian Government, especially in areas of national environmental significance, such as the Australian Alps National Parks and Reserves.
- 7.90 The Committee considers that the Australian Government should review the current management arrangements in the Australian Alps with a view to determining whether a different model – such as the Great Barrier Reef Marine Park Authority model – would improve coordination and priority management of the area’s biodiversity. In the event that the current arrangements are determined as satisfactory, the Australian Government should consider revising the structure of the Memorandum of Understanding to strengthen coordination and allow joint management, and create uniform guidelines to manage the area with greater authority and readily available scientific knowledge.

Recommendation 16

- 7.91 **The Committee recommends that the Australian Government review the current co-management arrangements in the Australian Alps with a view to determining whether a different model – such as the Great Reef Marine Park Authority model – would improve coordination and priority management of the area’s biodiversity.**

Integrated forest management

- 7.92 The Committee acknowledges the current opportunity for urgent consideration of biodiversity and forest management together with the effects of climate change. Any future inquiry could consider aligning fire management practices with objectives of safety, biodiversity protection and invasive species management, with a focus on connectivity and opportunities for forest managers to trade carbon credits to reduce carbon pollution.
- 7.93 The Committee agrees that integrated forest management could be beneficial to maintaining and protecting biodiversity in a changing climate. The Committee considers that an inquiry into the role and management of Australia’s native forests is required, as is a comprehensive assessment of forest health.

- 7.94 An inquiry into the role and management of Australia's forests could include considerations of the issues outlined earlier in this chapter, as well as:
- the need for a multi-use policy for Australia's forests
 - how forests should be managed and the extent of Australia's national park and reserve systems
 - how decisions should be made; whether we take into account the fact that wood production forests are as important as national parks, and that wood production forests have a role to play in conservation
 - the role of sustainable fire management
 - the role of timber production
 - the potential need for a body such as Land and Water Australia.

Recommendation 17

- 7.95 **The Committee recommends that the Australian Government establish an expert panel, including representatives of the timber industry and national parks, to inquire into and report on options for Australia's future integrated forest management.**

Mr Tony Zappia MP
Chair
30 May 2013