

**George Villaflor**

Committee Secretary  
Senate Standing Committee on Environment,  
Communications and the Arts  
Parliament House  
Canberra ACT 2600

Dear Committee Secretary,

**RE: Inquiry into the Operation of the EPBC Act**

I am an Aboriginal Barrister based in Canberra that like many others in the legal game, provide pro bono legal advice and assistance to many Aboriginal groups across Australia; as well as others.

I have been attracted to your current inquiry because of my recent and on going involvement with the so called “dingo fences” disguised as “fire management” on World Heritage listed, Fraser Island.

Your terms of inquiry into the “operations” of the EPBC Act, along with “other natural resources protection programs” has no connotations of being narrowed down to just “environmental factors”; and nor would I imagine it was meant to be.

No inquiry into the “environment” cannot allude reference to Indigenous issues that are existing and intertwined with the environment; that in today’s modern thought should be a given.

But with the deliberate omission of Indigenous values or inquiry with your Terms of Reference, the “ingrained thought & behaviour” that Justice Gummow of the Australian High Court, who once described the non-acceptance of the Indigenous rights with land and waters, appears by your Terms of Reference, to be looking to the future back to pre-Mabo.

The rights of Indigenous and values associated with those rights are now entrenched into common law of Australia as native title rights and interests, even though begrudgingly and wanting legislative narrow wishful outcomes,

This common “ingrained thought & behaviour” exists unchecked within senior staff of the Minister responsible for the operation of the EPBA Act and closely connected Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth).

In applying for a recent s9 Emergency Declaration under the latter Act for halting the Queensland government from destroying further both the local Butchulla cultural heritage sites and whole habitat destruction associated with their sites, called the “environment”, one senior staff in the Minister’s office curtly reminded me after I continually, to a point of suppose annoyance, pressed the Indigenous position, that:

**“ Fraser Island was only nominated for its natural values”**

Your inquiry appears also to be self-blinded to the *Indigenous values* connected with the “environment” as if the two for convenience are able to be separate issues. It is a given, at least in today’s time and law that Indigenous issues are non- extricable from the “environmental factors” and most importantly, its values.

World Heritage listed or pending listing sites all have the common value of being able to identify easily with the world’s people of having, usually at first glance or knowledge, “outstanding universal values”. That is, a simple explanation is that it needs to have universally, no matter what race or culture looks or thinks about such a listed World Heritage site, a “WOW” factor. They look at such a site and say “WOW”.

After the recent and unchecked and ongoing destruction of environment and Aboriginal sites and values on Fraser Island, a World Heritage listed site, I have been instructed by some of the Butchulla Peoples of Fraser Island to seek international support for delisting Fraser Island’s World Heritage status because after looking at all the current destruction and placement of electrified cattle grids in attempts to keep dingo out of populated and heavily visited areas on the Island, they can now only say despondently: “oh dear”.

The “outstanding universal values” are irretrievably destroyed because of the permanent scarring and deliberate injuries and desecration of significant Aboriginal areas from the bulldozing of the 8 metre wide scars around the Fraser Island townships; with more of these scarrings and destructions planned. This is becoming Australia’ version of Jurassic park with its zoo like effect scarring once ancient landscapes.

None of these works have enjoyed any prior environmental or cultural heritage study before contractors, usually unsupervised, are let loose to with bulldozers following some coloured marked sticks as guides where to go.

All these works under the guise of “public safety” have been sponsored by the Queensland government and importantly, only by the Commonwealth easy acquiescence from their international and national obligations under the EPBC Act.

The universal WOW factor has further been deliberately destroyed on Fraser Island by the government-sanctioned killing of dingos, agreed also under the EPBC Act Compliance sections, destroyed randomly by National Park officers for the slimmest reasons able to be connected to “public safety”.

The EPBC Act deliberate political blindness into the killing of these dingos and the protection of their critical habitats is a national and international disgrace. Australia’s reputation is forever soiled by its inability to protect any of the “outstanding universal values” with one the most recognisable World Heritage sites after Uluru.

Would the Commonwealth have erected a ‘dingo fence’ all around the Big Rock after the dingo incident that was said to have taken a baby to protect the public?

The EPBC Act is now forever frozen and useless with its deliberate political decision not to address a rogue State like Queensland from destroying an Australian icon, Fraser Island; or K'Gari to the local Butchulla Peoples.

In my Submission I have attached various letters from both Commonwealth and Queensland governments about my representations on behalf of a local Butchulla Elder, Aunty Mally who represents her Butchulla Peoples, to halt the ongoing destruction and desecration of their home, G'Gari [Fraser island]. The letters speak for themselves of the Hollow Men political game play with the Australian and international people being the losers of this unchecked decision-making farce.

There is currently a s10 Application under the *Aboriginal and Torres Strait Islander Heritage Protection Act* and has been long suffering and awaiting the Minister Garrett's decision. On past performances of the Minister's staff, it is a given that the application will be soon rejected.

In today's local Fraser Coast Chronicle newspaper (19<sup>th</sup> September 2008) the current Queensland Minister for the Environment and architect of the dingo fences, was flown to Fraser Island by helicopter, complements of a local TV station, to do his television on the recent 'dingo scare':

Local, national and world news for the Fraser Coast, QLD | Friday 19 September, 2008

## Fence under fire again as dingo attacks girl, 3

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September 19, 2008  
Loretta Bryce

A three-year-old girl playing on a beach south of Eurong on Fraser Island was attacked by an adult female dingo about 5.30pm on Tuesday.

The girl had been playing with her siblings, 7 and 2, while their parents fished nearby.

She was reportedly standing near her father and was attacked when he turned to cast his line.

While the child didn't need medical attention, Sustainability Minister Andrew McNamara warned visitors to stay within fenced areas to avoid dingo attacks.

[ I have attached the Press Release]

**My comments about the above "convenient dingo incident" is that it is not just about whether the story is true as the parents have been reported to not want any press attention;**

**[if the story is true; as there have been doubts expressed by the local on Fraser Island about its truthfulness; due to new 'dingo fences are to be started on the icon of Fraser Island- Lake McKenzie]**

**but more of a “child protection issue” if the parents ignore their young children to concentrate on fishing. But regardless, if the story is true, only a watchful parent can protect the child not dingo fences.**

The Minister’s comments above sinks a fatal stab into pretending that “outstanding universal values still exist on Fraser Island by;

**“warning visitors to stay within fenced areas to avoid dingo attacks.”**

When fishing on the beaches of Fraser Island, the beaches are classified as roads, with usual road rules applying. It is big four-wheel drive cars and buses racing along the sand beaches that need constant watching for the attentive parents.

**Three basic question have to be asked and answered by the establishment of these dingo fences and the plan for more:**

- What if a “dingo attack” occurs inside a fenced area?; and
- How can anyone protect someone else from life itself?
- Who is going to defend the killing of more dingos?

As to the last question, dingos are also a non -extricable part of the spiritual landscape of the Butchulla; being closely associated with them long before white settlement.

#### **THREATENED SPECIES: THE DINGO**

**Due to the past unchecked killings and their deliberate habitat destructions on Fraser Island, the dingos must be afforded protection under the EPBC Act as a “threatened species” with EPBC Act mandatory Recover Plans enforced as anticipated by the EPBC Act itself.**

#### **REPEAL THE COMMONWEALTH CULTURAL & HERITAGE PROTECTION ACT**

**In summary, the EPBC Act has lost its potential role. The Commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act should be immediately repealed with Indigenous cultural heritage protection included into any future improvement of the EPBC Act itself.**

**Yours truly,**

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**George Villaflor Barrister at law**

**22 September 2008**