# Joint Submission on potential additional Matters of National Environmental Significance for the *Environment Protection and Biodiversity Conservation Act 1999*

WWF-Australia

Australian Council of National Trusts

Tasmanian Conservation Trust

Humane Society International

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The EPBC Unit is a joint project of WWF-Australia, the Australian Council of National Trusts and the Tasmanian Conservation Trust

## 1. INTRODUCTION

The Australian Government Minister for the Environment and Heritage, the Honourable Ian Campbell (the **Minister**), has requested public submission for matters to be covered by the report on the possible addition of new Matters of National Environmental Significance (**MNES**) to Part 3 of the *Environment Protection and Biodiversity Conservation Act 1999* (the **EPBC Act**). In recognition of the importance of this issue, this response to the Minister's request for public comment is submitted by the past and present project partners of the EPBC Unit Project.

The EPBC Act came into force on 16 July 2000 and is the Australian Government's principle piece of environmental legislation. The EPBC Act prohibits any person from having a significant impact on MNES[1] without first obtaining the Minster's approval. Consequently, the scope of these MNES is vitally important, as they are the triggers for the operation of the EPBC Act. In other words, if there are no MNES that may be impacted by a proposed action, then the action does not require EPBC Act approval.

Given the MNES are the EPBC Act triggers, it is imperative to ensure that the MNES cover the major threats to the Australian Environment. The current MNES triggers are

- world heritage values of declared World Heritage properties;
- national heritage values of National Heritage places;
- ecological character of declared Ramsar wetlands;
- threatened species and ecological communities listed under the EPBC Act[2];
- migratory species listed under the EPBC Act;
- nuclear actions that are likely to have a significant impact on the environment; and
- the Commonwealth marine environment.

The existing triggers, together with the current administration of the EPBC Act, are a vast improvement on environmental protection available under the various pieces of Australian Government legislation that the EPBC Act replaced. However, to ensure that the EPBC Act is able to meet its stated objectives, we recommend that 4 further MNES be added as EPBC Act triggers, and that some of the existing triggers be broadened.

## 2. OBJECTS OF THE EPBC ACT

The objects of the EPBC Act are:

(a) to provide for the protection of the environment, especially those aspects of the environment that are matters of national environment significance; and

(b) to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources; and

(c) to promote the conservation of biodiversity; and

(ca) to provide for the protection and conservation of heritage; and

(d) to promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples; and

(e) to assist in the co-operative implementation of Australia's international environmental responsibilities; and

(f) to recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and

(g) to promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

The Australian Government endeavours to achieve the objects of the EPBC Act via permit, Environmental Impact Assessment (EIA) and approval processes. With the addition of the proposed additional new MNES, the Australian Government would be better placed to achieve the EPBC Act objects, particularly those that relate to conservation and protection of biodiversity and the environment, and those relating to ecologically sustainable development and use of natural resources.

By incorporating provisions into the EPBC Act relating to the impacts on Australia's environment caused by nation wide issues such as land clearing, greenhouse gas emissions and the use of Australia's water resources, the Australian Government will better comply with it's international obligations and will create a standard, equal and effective method of EIA for these issues across the nation.

## 3. THE 1997 COAG HEADS OF AGREEMENT

As with the current MNES, the proposed additional MNES have been developed with reference to the 1997 COAG Heads of Agreement[3], which set out the agreed roles and responsibilities of the Australian Government and the States/Territories[4]. The Australian Government implemented many of the key aspects of the Heads of Agreement by the enacting the EPBC Act. The further MNES suggested by this submission for inclusion in the Minister's report have been pulled from some of the remaining matters in Attachment 1[5]. In particular, we make reference to the following matters where it was recognised that the Australian Government has and interest and/or responsibility:

*8. Reducing emissions of greenhouse gases and protecting and enhancing greenhouse sinks*

*10. Conservation of biological diversity (recognising that nationally endangered or vulnerable species and communities are covered under item 4 of this Attachment)*

*20. Policies and practices of a State resulting in potentially significant adverse external effects in relation to the environment of another State, where the States involved cannot resolve the problem*

*27. Conservation of native vegetation and fauna*

*28. Prevention of land and water degradation*

## 4. NEW MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE

### 4.1 Summary

The following table provides a summary of the suggested new MNES for inclusion in the Minister's report, and the current MNES that might be amended to strengthen the protection they offer.

| **Proposed new MNES** | **Trigger** |
|---|---|
| **Broadscale Land Clearing** | The clearing of native vegetation over 100 ha in any two year period, or the clearing of any area of native vegetation that provides significant habitat for EPBC Act listed threatened species or ecological communities, or that is on the Critical habitat list. |
| **Greenhouse** | Any actions likely to result in greenhouse gas emissions of over a 100,000 tonnes of carbon dioxide equivalent in any 12 month period or is likely to produce 5 Mt of carbon dioxide equivalent over the likely lifetime of the action |
| **Unsustainable Water Use** | The abstraction of surface and ground water resources over 10,000 megalitres |
| **Dams** | The construction and operation of any large dam, defined as having a crest height of 15 m or more or a capacity of over 1 M cubic metres |
| **Proposed amendments** | **Trigger** |
| **Ecological Communities** | Ecological Communities as a MNES should be extended to include Ecological Communities in the Vulnerable category |
| **Commonwealth Marine environment** | The definition of the Commonwealth Marine environment should expressly include and State managed fisher fishing on Commonwealth Waters |
| **Nuclear action** | The definition of Nuclear action should be extended to cover more nuclear related actions such as military exercises, and any nuclear powered or controlled device |
| **Migratory Species** | Migratory Species trigger should be extend to include the highly migratory species listed in Annex I of United Nations Convention on the Law of the Sea |

### 4.2 Proposed additional MNES assessed against OECD evaluation criteria

These proposed new triggers satisfy the OECD evaluation criteria used to design robust policy mechanisms:

- **Effectiveness**. Extent the trigger captures the full range of actions that have a significant impact on MNES values and/or an area where the Australian Government has an international responsibility
- **Simplicity**. Extent to which the trigger is administratively efficient and straight forward to implement
- **Transparency**. Extent to which the trigger provide a high degree of transparency from both the perspective of the Australian Government and the action proponent
- **Equity**. Extent to which the trigger treat actions from different sectors equally.

These are summarised in the table below, and show they generally

| | **Effectiveness** | **Simplicity** | **Transparency** | **Equity** |
|---|---|---|---|---|
| **Land Clearance** | Yes. Though does not capture removal of small areas in coastal environments | Yes. Clear, more direct trigger for habitat and broad scale area can be readily quantified | Yes. Direct and transparent | Yes. But could be enhanced to capture smaller scale clearing in coastal environments |
| **Greenhouse** | Yes. Can be designed to capture major emitters | Yes. If restricted to stationary point sources | Yes. Direct and transparent | Will mostly capture power stations and other large scale emitters. Non-point sources can be captured by other triggers, eg. Land clearing trigger |
| **Unsustainable Water Use** | Yes. | Yes. Quantities can be readily measured | Yes. Direct and transparent | Yes. |
| **Dams** | Yes. Can be designed to capture significant new dam projects | Yes. Easily measured | Yes. Direct and transparent | Yes. |

### 4.3 Land Clearance

**New trigger** - A person must not take an action that has, will have or is likely to have a significant impact on the environment by Broadscale clearing.

**New definitions** -
Broadscale Clearing means the removal, damage or destruction of native vegetation that:

(a) exceeds a combined area of 100 ha in any two year period, or

(b) provides significant habitat for listed threatened species or ecological communities, or

(c) is listed critical habitat.

Native vegetation means

(a) trees (including any sapling or shrub, or any scrub),

(b) understorey plants,

(c) groundcover (being any type of herbaceous vegetation), or

(d) plants occurring in a wetland,

where not less then 70% of the vegetation are Native Species

While Australia is one of the most biologically diverse nations in the world[6], it also clears more native vegetation per year than any other developed nation in the world[7]. Indeed, Australia clears as much as ten times more than the average of any other Commonwealth country and is only surpassed in its clearing by Brazil, Indonesia, Sudan and Zambia[8]. In 1990 for example, it is estimated at an area the size of 1 million rugby fields was cleared in Australia[9]. Broad scale clearing occurs in every State and Territory of Australia and is widely recognised as the key major threat to Australia's bidiversity.

In January 2003, WWF- Australia commissioned a scientific analysis of the biodiversity impacts of clearing in Queensland (which prior to 2003 averaged about 500,000 hectares per year). That study found that land clearing killed more than 100 million birds, mammals and reptiles each year in Queensland alone. Satellite data shows that during 1999-2001, 94% of tree clearing in Queensland was for pasture [10]. Combine those figures with the reality that extensive clearing in Queensland has already lead to 107,000 hectares of land in the State showing signs of salinity, with over a third of this land no longer able to support farming[11]

It is a similar story in the other States. In NSW for example, over 60,000 hectares of native vegetation is bulldozed and burnt every year. This breaks down to around 68 average suburban blocks every hour[12]. In WA, more then 90% original vegetation in the south-west region of the State has been cleared.

The impact of broadscale clearing is undeniable. Indeed, the 2001 SoE report noted that "the destruction of habitat by human activities remains the major cause of biodiversity loss"[13]. Not only does it result in the destruction of native species, but it has the knock on effect of destroying habitat resulting in further species loss, leading to the occurrence of dryland salinity, increasing the likelihood of weed infestation and invasive species movement, leads to soil degradation and erosion, and contributes over 13% of Australia's total carbon dioxide emissions[14.]

The National Objectives and Targets for Biodiversity Conservation 2001-2005 set the target of all jurisdictions having clearing controls in place that will have the effect of reducing the national net rate of land clearance to zero, by 2001[15]. However, in 2001 alone an estimated 248,000 ha of Australian land was cleared[16]. The 2001 review of the National Strategy for the Conservation of Australia's Biological Diversity, noted that object 3.2 of the National Strategy had not been achieved. [17] Objective 3.2 called for the Australian Government to "ensure effective measures are in place to retain and manage native vegetation, including controls on clearing" by ensuring that there were adequate policies and controls in place throughout the Australian jurisdiction.

Some of the States have made efforts to halt the unrelenting destruction of native vegetation. For example, the Queensland Parliament has passed the Vegetation Management and Other Legislation Amendment Act 2004, which aims to phase out the large-scale clearing of mature remnant bushland. However, one of the issue preventing State and Territory legislation from adequately protecting the environment from excessive broadscale land clearing is the differing regimes that exist throughout the country.

Without a national focus on land clearing activities, the damage to the Australian Nation will continue. In the past 10 years alone the number of terrestrial bird and mammal species assessed as extinct, endangered or vulnerable rose by 39%[18]. The treat and cost of salinity will also rise. In 2000, about 46,500 sq kms (4.6 million hectares) of agricultural land was already affected with a high salinity hazard costing an estimated $187 million in productivity[19]. The EPBC Act is the most appropriate place for the Australian Government to focus its efforts to combat the impacts of broadscale clearing.

Given the rate of biological loss and environmental degradation cause broadscale clearing, it is clear that current methods of control are failing to work and Australia is falling far short of its international obligations, such as those under Article 8 (c) – (e) the Biodiversity Convention. With broadscale land clearing as an EPBC Act trigger, the Australian Government can actively achieve the objects of EPBC Acts by promoting the principles Ecologically Sustainable Development. In particular, principles of integrating of long and short term economic, social and equitable considerations, inter-generation equality and the conservation of biological integrity.

### 4.4 Greenhouse

**New Trigger** - A person must not take an action that has, will have or is likely to have a significant impact on the environment by resulting in, or that is likely to result in greenhouse gas emissions of
(a) over a 100,000 tonnes of carbon dioxide equivalent in any 12 month period, or
(b) 5 Mt of carbon dioxide equivalent over the likely lifetime of the action.

**New Definitions**

Greenhouse Gas Emission means the release of:
(a) carbon dioxide ($CO_2$),
(b) methane ($CH_4$),
(c) nitrous oxide ($N_2O$),
(d) perfluoromethane ($CF_4$),
(e) per-fluoroethane ($C_2F_6$), or
(f) any combination of (a) – (e) above.

Pollution from Greenhouse gas emissions is a global issue that, within the Australian jurisdiction is best dealt with at a National level. Greenhouse gas pollution from human sources has already caused a 0.6℃ rise in the global average temperature above the pre-industrial level[20]. This seemly

small change in temperature has already had a significant impact on the Australian environment by causing coral bleaching in our marine reserves and World Heritage areas and by increasing the severity of the recent drought and bushfires across the country.

The Inter-governmental Panel on Climate Change[21] identified a range of impacts on ecosystems, human health and the incidence of extreme weather events associated with an increase in the global average temperature of 2℃ above the pre-industrial level. This dangerous temperature threshold must be avoided if the risk of large and irreversible changes is to be lowered.

By incorporating a greenhouse trigger into the EPBC Act the Australian Government could have more control over new developments and any increase or changes in existing projects where they are likely to result in the release of greenhouse emissions over a 100,000 tonnes of carbon dioxide equivalent in any 12 month period, or is likely to produce 5 Mt of carbon dioxide equivalent over the expected lifetime of the action

Australia's Greenhouse gas emissions are increasing. Indeed, in the 10 years to 2002 Australia's total net greenhouse emissions increased 8.8% to 550 megatonnes (Mt) $CO_2$ equivalent [22]. Even without any further increase, given the current levels of greenhouse gas pollution and the inherent inertia of the climate system the global community is probably 'locked into' at least a further 1°C rise in the global temperature. This is likely to cause major problems for Australia with increases in extreme weather events, reducing water resources and negative impacts on natural ecosystems, agriculture and fisheries[23].

Greenhouse is already recognised by the Australian Government as a serious issue with the *National Climate Change Adaptation Programme* allocating $14.2 million for preparing Australian governments, vulnerable industries and communities for the "unavoidable impacts of climate change"[24]. Review of the National Strategy for the Conservation of Australia's Biological Diversity noted that objective 3.6 Impacts of Climate Change on Biological Diversity[25] had not yet been achieved. By incorporating greenhouse gas emissions into the EPBC Act the Australian government will achieve national, cost effective and efficient way to legislate for any further development that will significantly add to the nation's greenhouse charge.

On 30 December 1992, Australia became the ninth State to ratify the *United Nations Framework Convention on Climate Change* (the FCCC). Under Article 4 of the FCCC, Australia is obligated to adopt national policies and take corresponding measures for the mitigation of climate change. By incorporating a greenhouse gas emissions trigger into the EPBC Act the Australian Government could give effect to its obligations while securing the objects of the EPBC Act.

### 4.5 Unsustainable Water Use

**New Trigger** - A person must not take an action that has, will have or is likely to have a significant impact on the environment by abstraction or enabling the abstraction of surface and/ or ground water resources over 10,000 megalitres.

By 2000, about one-quarter of Australia's surface water management areas were already classed as highly used or overused, with 11% of the surface water management areas and another 11% of the groundwater management units exceeding the overdeveloped threshold[26]. The addition of an EPBC trigger where any person wants to undertake an action that abstracts or enables the extraction or harvesting of surface or ground water exceeding 10, 000 megalitres will provide the Australian Government with a more direct way of regulating the impacts that water extraction has on

Australia's environment. For example, such a trigger would apply to large irrigated agriculture developments that are likely to have a significant impact on downstream aquatic ecosystems.

Water extraction is a National issue that often transcends State borders (such as extraction from the Murray River). Indeed, river systems provide about 73% of the water used in Australia (~24 000 GL) with a further 21% coming from ground water aquifers[27]. Unsustainable water use is a major problem in Australia. So much so that, for example, reducing the level of water over allocation in the Murray-Darling Basin will cost $500 million over five years commencing in 2004-05.

One of the continuing issues hindering the sustainable use of Australia's water resources is the sheer size of the current division coupled with the differing legislative regimes in each of the States and Territories. Australia has 325 surface water management areas, based on the country's 246 river basins, and 538 groundwater management units (hydrologically connected water systems)[28]. The river systems and catchments within these areas are at differing stages of use and development and often pass through differing legislative regimes along their length. For example, irrigation corporations along the Murray, Goulburn and Murrumbidgee River systems cumulatively extract over 5, 000, 000 megalitres each year, effecting the environment across 3 State borders.

Unsustainable water use affects all jurisdictions across Australia, in NSW for example 87% of the river length within the State already has altered hydrologic regimes[29], while in Tasmania there as been a 173% surge in surface water use in the past 20 years[30]. In Queensland, Cubbie Station on the Balonne River, has a cumulative storage capacity exceeding several hundred thousand megalitres, and Australia wide bulk water licences for irrigation corporations can exceed 2, 000, 000 megalitres.

Water abstraction is a key threat to many many wetlands of national and international importance. The NLWRA *Terrestrial Biodiversity Assessment* study of key threats to wetlands listed in the *Directory of Important Wetlands in Australia 2001* identified hydrological change as one of the top 4 threats.[31] Additionally, water abstraction is a key threat to a number of Ramsar listed wetlands, such as the Macquarie Marshes.

By adding an EPBC Act trigger for unsustainable water use, at the level of abstraction over 10,000 megalitres, the Australian Government can control the environmental impacts of large scale water projects. This will foster the Australian government's efforts to achieve the object s of the EPBC Act to provide for the protection of the environment, to promote the conservation of biodiversity, and to promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources. It will also allow cooperative regimes with the States with the level of extraction proving a clear indicator of whether the proposed water use is a matter of State or National significance.

Unrelenting and unsustainable use of Australia's water resources will inevitably mean that river systems, aquifers, and caste systems will no longer be able to support their native ecosystems, which, in some cases, exist nowhere else in the world. The Biodiversity Convention requires the Australian Government to promote the protection of ecosystems and natural habitats. Additionally, the Ramsar Convention requires effective management of listed wetlands. With the continued use of Australia's water resource at the current level, Australia will fall far short of its obligations in relation to freshwater ecosystems.

### 4.6 The Construction and operation of Dams

**New Trigger** - A person must not take an action that has, will have or is likely to have a significant impact on the environment by the construction and or operation of any Large Dam.

**New Definition-**

Large Dam means any artificial barrier that obstructs, directs or retards natural water flow and that
(a) has a crest height of more 15 m or more; or
(b) has an impoundment capacity of over 1 M cubic metres.

Australia is the driest inhabited continent with annual rainfall averaging only 455 mm. The rainfall that does occur is distributed unevenly across the continent so that river flows are nearly 3 times more variable in Australia than the world average[32]. Perhaps a consequence of this restricted fall is Australia's fondness of damming its river systems. Australia has 447 large dams with a combined capacity of 79 000 GL of water. This is equivalent to 158 times the volume of Sydney Harbour[33]. This hydrological modification occurs throughout Australia to varying degrees and has a potentially devastating impact on the Australian environment.

The threat to the Australian environment is increasing with the unsustainable use of the available water resources. Indeed, between 1983/ 84 and 1996/97, surface water use across Australia annually increased by 69 per cent (20 300 GL)[34]. Making large dams an automatic trigger for the EPBC Act will allow the Minister to create clearer guidelines on how dams, as a MNES, will be assessed.

The recent *Nathan Dam*[35] Federal Court Case pointed to the difficulties in assessing large scale dam proposals. The full Federal Court found that when assessing the dam, the Minister must consider "all adverse impacts" of the proposal, which was found to be
"not confined to direct physical effects of the action on the matter protected by the relevant provision of Pt 3 of Ch 2 of the EPBC Act. It includes effects which are sufficiently close to the action to allow it to be said, without straining the language, that they are, or would be, the consequences of the action on the protected matter."

Making large dam proposals an automatic trigger for the EPBC Act where they are likely to have a significant impact on the environment will provide a more direct method for DEH and the Minister to assess the likely environmental impacts of such an action reducing proponent's uncertainty and creating a common standard by which all large dam projects are assessed.

The issues preventing the issue of dams from being adequately dealt with in the current regime, despite the COAG agreement, are not only the differing legislative regimes but also the failure of some of the States to adequately enforce the existing regimes. In NSW and Victoria there are approximately 30 large dams that breach statutory pollution laws (NSW) or water quality protection policies (Vic) regarding water temperature regimes. For example, from the information available it would appear that 18 large dams owned by State Water in NSW regularly discharge water that exceed the maximum allowable 2 degree Celsius temperature range established by Schedule 3 of the *Protection of the Environment Operations (General)* Regulation 1998:

> *cl. 10. Any thermal waste (being any liquid which, after being used in or in connection with any activity, is more than 2 degrees Celsius hotter or colder than the water into which it is discharged).*

Large dam projects can have a devastating impact on fresh water ecology and biodiversity, not only by restricting water flow but also by changing nutrient levels, thermal pollution, sediment build up and simply, by being in the way and preventing movement. Dams also destroy the ecosystem in the inundation zone, and can effectively starve down stream ecosystems of the water they need to survive.

Large Dam projects throughout Australia should be a MNES, and be built in accordance with the overarching principles of ecologically sustainable development. This would help the Australian government achieve the objects of the EPBC Act, especially those in relation to ecologically sustainable development through the conservation and ecologically sustainable use of natural resources as well as promoting the conservation of biodiversity.

## 5 AMENDING THE EXISTING MNES

The existing MNES make serious inroads into the national issues effecting Australia's environment. However, some of the existing MNES need to be amended to give full effect to the objects of the EPBC Act.

### 5.1 Ecological Communities listed under the EPBC Act

At the present time only ecological communities listed under the EPBC Act in the categories of 'critically endangered' and 'endangered' are covered by the protective umbrella of the Act. To adequately protect ecologically communities, it is more cost effective to protect them before the get to the endangered stage. Ecologically communities in the "Vulnerable' category should also be a MNES trigger to conform them to the EPBC threatened species categories and to give effect to the Australian government's responsibility under the 1997 COAG Heads of Agreement, in particular, the following matter:

> "*4. Nationally endangered or vulnerable species and communities*
>
> *The Commonwealth has a responsibility and an interest in relation to meeting the obligations of the Convention on Biological Diversity and the objectives of the Endangered Species Protection Act 1992 to promote the recovery of species and ecological communities that are endangered* ***or vulnerable****, and prevent other species and ecological communities from becoming endangered*."[emphahis added]

Protection offered to endangered ecological communities could also be improved through more judicious implementation of the EIS provisions. For example the use of Administrative Guidelines could be better used to help overcome the curse of cumulative impacts. Cumberland Plain Woodland, the first ever ecological community protected by the Commonwealth, is suffering extinction by a thousand cuts. We recommend publishing Administrative Guidelines for Cumberland Plain Woodland and other critically endangered ecological communities with 5% remaining, similar to those published for brigalow woodlands and blue grasslands, but that inform developers and landholders that all clearing of the remaining remnants will be considered a controlled action and is unlikely to be approved.

### 5.2 Commonwealth Marine Environment

The trigger for the Commonwealth Marine environment includes Commonwealth Waters and commonwealth managed fisheries. To adequately give effect to the intention of this trigger, the Commonwealth Marine environment should be expressly extended to cover State managed fisheries in Commonwealth Marine areas. Under the present regime State or Territory managed

fisheries in the Commonwealth marine area are exempt from the provisions protecting the Commonwealth Marine environment[36].

### 5.3 Nuclear Action

To give full effect to the provisions relating to Nuclear Actions that may have a significant impact on the environment, the definition of Nuclear action at s22(1) of the EPBC Act should be extended to cover:

- military facilities, operations or exercises that use or relate to nuclear power sources,
- mining or processing of Australian fertile and fissile materials including minerals sands,
- transportation of radioactive materials and products,
- irradiation of foods and other products for human use or consumption, and
- obtaining, using or decommissioning any nuclear powered or controlled device

### 5.4 Migratory Species

In order to adequately protect migratory species and give effect to Australia's international obligations, the Migratory Species trigger should be extend to include the highly migratory species listed in Annex I of United Nations Convention on the Law of the Sea in the list of international agreements.

## 6. CONCLUSION

The EPBC Unit project partner groups submit four new MNES in response to the Minister's request for public comment on matters to be covered by the report on the possible addition of new MNES. These are

- Land clearing
- Greenhouse Gas Emissions
- Unsustainable Water use
- Dams

These additional MNES have been sourced from Australia's international obligations, and the interests and responsibilities recognised by the 1997 COAG heads of Agreement. The suggested additional MNES satisfy the OECD evaluation criteria of simplicity, efficiency, equity and transparency used to design robust policy mechanisms. By adding the suggested additional MNES, and amending the current MNES as suggested, the Australian Government can more effectively achieve the objects of the EPBC Act. The proposed additional MNES will also allow the Australian Government to legislate for enhanced national environmental protection in the most cost effective way, that is, within the existing frame work of the *Environment Protection and Biodiversity Conservation Act 1999*.

**END NOTES**

[1] Part 3 also covers certain actions by the Commonwealth or a Commonwealth agency and certain actions impacting Commonwealth land

[2] other than threatened species listed in the "extinct" or "conservation dependent" categories and ecological communities in the "vulnerable" category

[3] *Heads of agreement on Commonwealth and State roles and responsibilities for the Environment* Council of Australian Governments, November 1997

[4] And was signed by all heads of governments and the Australian Local Government Association

[5] *Heads of agreement on Commonwealth and State roles and responsibilities for the Environment* Council of Australian Governments, November 1997

[6] *Second National Report - The Convention on Biological Diversity*, DEH Australia

[7] Australian Land Clearing, A Global Perspective: Latest Facts & Figures. March, Australian Conservation Foundation (ACF), Melbourne

[8] *Forest Resources Assessment 200*0, United Nations Food and Agriculture Organisation

[9] WWF-Australia

[10] *"Land Cover Change in Queensland 1999-200*1" A Statewide Land cover and Trees Study Report Issued January 2003, Department of Natural Resources (DNR) Indooroopilly, Qld.

[11] Salinity on Australian Farms. Report No. 4615.0 Australian Bureau of Statistics 2002

[12] The Wilderness Society

[13] *Australia State of the Environment Report 2001 (Theme Report)* CSIRO Publishing on behalf of the Department of the Environment and Heritage

[14] This 13% contribution is almost equivalent to emissions from the entire transport sector- every car, truck, train, bus and plane in Australia. WWF-Australia

[15] Net rate of land clearance by jurisdiction per year, comprises:
- area of native vegetation communities cleared, by jurisdiction per year; and
- area being revegetated to native vegetation communities per year.

[16] ABS *Measures of Australia's Progress: Summary Indicators 2005*, Australian Bureau of Statistics

[17] *Review of the National Strategy for the Conservation of Australia's Biological Diversity* Australian and New Zealand Environment and Conservation Council Environment Australia, 2001

[18] ABS *Measures of Australia's Progress: Summary Indicators 2005*

[19] ABS *Measures of Australia's Progress: Summary Indicators 2005*

[20] IPCC, (2001) Climate Change 2001: *Synthesis Report*. A Contribution of Working Groups I, II, and III to the Third Assessment Report of theIntegovernmental Panel on Climate Change [Watson, R.T. and the Core Writing Team (eds.)]. Cambridge University Press, Cambridge,United Kingdom, and New York, NY, USA, 398 pp.

[21] IPCC, ibid

[22] ABS *Measures of Australia's Progress: Summary Indicators 2005*

[23] WWF Australia Protecting Australia's Future - Avoiding Dangerous Climate Change 2004

[24] Australian Greenhouse Office

[25] Plan to minimise the potential impacts of human-induced climate change on biological diversity.

[26] ABS *Measures of Australia's Progress: Summary Indicators 2005*

[27] *Australian Water Resources Assessment* 2000 National Land and Water Resources Audit c/o Land & Water Australia

[28] ABS *Measures of Australia's Progress: Summary Indicators 2005*

[29] NLWRA 2002b, Australian Catchment, River and Estuary Assessment 2001, National Land and Water Resources Audit, Canberra

[30] *Australian Water Resources Assessment* 2000 *National Land and Water Resources Audit c/o Land & Water Australia*

[31] Sattler, P. and Creighton, C. 2002. Terrestrial Biodiversity Assessment. NLWRA, Canberra. Pg. 24

[32] WWF Australia Fresh Water Facts

[33] WWF Australia Fresh Water Facts

[34] *Australian Water Resources Assessment* 2000 National Land and Water Resources Audit c/o Land & Water Australia

[35] Minister for the Environment and Heritage v Queensland Conservation Council [2004] FCAFC 190 app. Queensland Conservation Council Inc v Minister for the Environment and Heritage [2003] FCA 1463

[36] They are, however, not exempt from provisions protecting threatened and migratory species.

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