

Mr Tom Holder - Environmental Defender's Office (NSW)

To whom it may concern,

Thank you for the opportunity to make this short submission on the consultation draft of Australia's Biodiversity Conservation Strategy 2010-2020 (the strategy). The Environmental Defender's Office (NSW) (EDO) is a community legal centre specialising in public interest environmental law.

The strategy is a vitally important document. It sets the direction for the conservation of biodiversity in Australia. As such, the strategy should clearly identify objectives, how the objectives are proposed to be achieved (including responsibilities for the implementation of actions), measurable performance targets and timeframes for achieving objectives, and how progress against performance targets will be measured. In addition, given that this strategy follows a previous strategy, it should also analyse any failures of existing approaches and provide recommendations for how failures can be better addressed.

We do not believe the strategy has achieved these things. However, we do not wish to focus on the above aspects of the strategy. Rather, we would like to focus this short submission on the implications of climate change, which has emerged relatively recently as a major threat to biodiversity globally.

We submit that climate change presents a fundamental challenge to biodiversity conservation in Australia. It will require us to re-evaluate our current approach to conservation, which will involve consideration of ethical questions such as what to protect and why. For example, some scientists argue that current overarching goals and legislative objectives, which generally aim to protect all species from extinction and to prevent change to biodiversity, will be impossible to achieve.

We are in the process of finalising a discussion paper on the implications of climate change for biodiversity conservation in Australia. The draft paper reviews the current legal framework for the protection of biodiversity at a Federal level, and begins the process of evaluating the adequacy of the management tools provided for under this framework to protect biodiversity under climate change. We have sought feedback on the draft paper from various legal and scientific experts, including holding a roundtable discussion with the experts to discuss the issues raised in the paper.

Given the fundamental challenges posed by climate change, one recommendation of the discussion paper, which arose from the recent Dunlop and Brown report, is the need for a national debate on the appropriateness of our current approach to biodiversity conservation. Decisions about what to protect and why are ethical questions, which must be guided primarily by society, rather than by science.

We believe that biodiversity strategies such as the current draft strategy are one appropriate mechanism to facilitate the debate. Biodiversity strategies aim to set the overarching direction for biodiversity conservation over the short and long-term. They provide a mechanism to regularly review our approach to biodiversity conservation, while at the same time enable us to set our gaze over longer time frames.

We also submit that biodiversity strategies should also play a key role in informing statutory reviews of key biodiversity legislation and so should be reviewed in sync with such reviews. In this regard, the current draft strategy should have been finalised prior to the beginning of the independent review of the Environment Protection and Biodiversity Conservation Act 1999, in order to inform that review. We support amending the Environment Protection and Biodiversity Conservation Act 1999 to require that a biodiversity strategy be prepared to set out how the objects of the Act are to be achieved, as occurs in some other States, including NSW under the Threatened Species Conservation Act 1995. Importantly, the Act should specify that the draft strategy should be finalised prior to the beginning of the five yearly statutory review process for the EPBC Act.

We are proposing to forward a copy of our discussion paper to the Department of Environment, Water, Heritage and the Arts within the next few weeks. We thank you again for the opportunity to make a submission. Please contact the writer if you would like to discuss any of these comments further.

Yours sincerely Environmental Defender's Office (NSW) Ltd
Tom Holden Scientific Director