

## Summary

**Name of author/organisation:**

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**Date:**

30 July 09

**Which chapter(s) of the interim report are you commenting on?****Chapters**

3 & 4 Impact Assessment

6 Forestry

8 Climate Change, 9 Water, 12 Threatened Species and ecological communities

**Key points of submission**

The submission details concern over the listing of Tasmanian lowland grass as a critically endangered ecological communities and ask for an independent audit, in the hope that resource users and land owners will have a formal role to play in the listing process.

The submission also looks at the duplication and unnecessary red tape and additional cost to be borne by landowners as the Commonwealth increasing duplicates State processes. It asks for a helping hand not a draconian fist to pummel affected land owners.

The fiasco over the approval of the Meander Dam is also highlighted showing how the EPBC act and the Federal court can be used by activists to delay vital infrastructure that benefits the whole community.

**References**

Approval decision construction and operation of the Meander Dam in the Meander Valley, Tasmania (EPBC 2002/565)

Tasmanian Conservation Trust v Minister for Environment and Heritage [2004] FCA 883

Lowland Native Grasslands of Tasmania, EPBC Act Status and Documents

[http://www.environment.gov.au/cgi-](http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=74&status=Critically%20Endangered#profile_status)

[bin/sprat/public/publicshowcommunity.pl?id=74&status=Critically%20Endangered#profile\\_status](http://www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=74&status=Critically%20Endangered#profile_status)

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**Do you want this submission to be treated as confidential?**

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30 July 2009



### Comments on the Interim Report for the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

#### Meander Resource Management Group comments to the independent Review of the EPBC Act

Many members of the Meander branch were shocked at the recent listing of Tasmanian Lowland grasses as a critically endangered vegetation community. The listing of the species provides many lessons for the independent reviewer yet the interim report which was published before the announcement does not take account of the public angst caused by the process of listing.

Apparently the listing was proposed by environmental lobby group, the Humane Society International, a number of years ago, it was put out for public comment, and it was readily apparent that the submission was flawed. However once public comment closed, instead of rejecting the nomination, the Threatened Species Scientific Committee deferred a decision for two years.

A working group was established and using Commonwealth and State resources and a study of lowland grasses was undertaken. This report speculated that there was much more of this community originally in 1750 than that estimated in all previously studies and published works. This increase in estimate was in the order of 100,000 hectares yet the 1750 extent of other vegetation communities e.g. *E. viminalis* grassy forest/woodland, has not been altered.

This massive increase in 1750 extent has enabled the new study and the assessment under the EPBC Act to conclude that there has been “a substantial decline in the extent of the ecological community in the order of 83%”. This is **exactly** the same percentage used in the original nomination, despite the massive change in 1750 extent!

In 2008, the ecological community occupied an area of approximately 21,600 ha and increase of over 7,000 hectares from the original nomination. Whilst there was a subsequent request for public comment in March 2009, it would appear that none of the original submitters, including this branch, were notified. As a result the listing came as a complete shock to the community, to affected landowners and even members of the Government.

Our local federal ALP member Dick Adams MP, publicly expressed concern that the social and economic impact of this decision had not been considered, nor had landowners been consulted.

This sorry saga needs full auditing; as well there needs to be representatives of the community, of resource users and industry to be able to formally advise the Minister and review the recommendations of the Threatened Species Scientific Committee.

Another key issue for my branch members in achieving the objects of the Act is the duplication and overlap with state legislation including duplication or inconsistent nomination and listing processes for threatened species and communities, and inconsistent definitions for threatened communities.

Definitions of the same vegetation community differ at the state and federal levels, causing great uncertainty for landowners. The farmer or landowner needs to engage a specialist to know and work their way through two sets of regulation.

There must be mutual recognition between state and federal assessment processes and delegation to State processes should be encouraged. For example the Tasmanian Forest Practices Authority would assess EPBC issues as well as relevant state legislation through the preparation of Forest Practices Plans.

Transparency, independent scientific rigour, socio-economic balance and timeliness in the process of assessing potential nominations should be vital ingredients of the successful operation of the Act. Positive amendments already made to the Act include the provision for an annual call for nominations and a review by the department, publication of a list of the nominations that would be pursued, and a time commitment for the assessment. These provisions are important because they ensure a transparent process for assessing applications, which is vital in order for stakeholders to have confidence in the process and outcome of any listings.

In addition, the Act needs to be amended to ensure there is a public right to appeal listing decisions made under the Act and an opportunity to make submissions to nomination processes.

It is the experience of my members that farmers and landowners are best placed to care for their land. They expect a helping hand from Government in the form of advice and extensions services rather than heavy handed regulation and red tape.

They are also distressed about a system as proposed in the review for more opportunity for “stake holders” – code for environmental activists to impose their views on the community and to tell landowners what they can and can’t do on their private land.

Compared to the cities, where the majority of these ENGO activists live, rural land uses provides for long term sustainable management that reflects nature. Private forestry has potential to increase the biodiversity values considerably unlike urban development.

Regulations that enforce a loss of resource to the land or forest owner, such as many environmental value protection requirements under this Act, impose a disincentive for development such plantation establishment. Regulations or restrictions without financial incentives simply increase the costs of operation and make forestry business less competitive. Rural Communities do not prosper in this environment.

Another major issue not considered by the Review is the fiasco over the approval of the Meander Valley Dam. This dam is now built and Huntsman Lake is full of water, providing renewable hydro power and irrigation to the Valley and beyond. Yet the Tasmanian Conservation Trust and other green activists were able to delay this much needed development through the EPBC act and the Federal Court using “endangered and threatened species”. The Development Proposal and Environmental Management plan (DPEMP) was prepared in 2001, but due to appeals under the State planning system, it was not until Parliament acted to approve the dam in February 2003, that community felt confident that it would be built. However we had to wait until September for EPBC Act approval<sup>1</sup> that included draconian conditions for a plant identified as *Epacris exserta* and the spotted tail quoll.

However the Trust was able to cause more delay by taking the Minister to the Federal Court, which did not make a decision until July 2004<sup>2</sup>, this was only after a request for discontinuance due to the plant being wrongly identified by the TCT’s experts. In January 2004, Dr Ron Crowder published a paper relating to taxonomic changes involving *E. exserta* providing scientific evidence to demonstrate that the relevant plant variety growing in the Meander Valley was not *E. exserta* but was a different variety of plant which was not listed as threatened under the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).

Now just who compensates the community for four years loss of irrigation and renewable power, resultant employment and taxes certainly not the environmental activists .Our search of the Independent review of the EPBC act fails to find the Meander Dam mentioned!

The assessment of the dam highlights the need for robust independent scientific advice, the need to accredit State processes including action of the Parliament and to pursue cost for delays and court action by environmental groups. In this case the court case was not in the public interest of the majority of Meander Valley and Tasmanian residents that supported the dam, but the very narrow interest of a few agitators and self serving environmentalist representing a tiny minority of the State.

Rather than recommend more red tape and more public involvement in stopping development the review must ensure that the implementation of the Act must be improved to support landowners and forest managers.

Rodney Stagg  
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<sup>1</sup> Approval decision construction and operation of the Meander Dam in the Meander Valley, Tasmania (EPBC 2002/565)

<sup>2</sup> Tasmanian Conservation Trust v Minister for Environment and Heritage [2004] FCA 883