



The Secretariat
Independent review of the EPBC Act 1999
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Friday July 24, 2009

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**Further Submission to the Independent Review
of the *Environment Protection and Biodiversity Conservation Act 1999***

This submission is not confidential

by
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Introduction

Australia's Wilderness Areas are inadequately unprotected. Most of these areas are not secured in IUCN category 1b reserves (wilderness), with the exception of some areas in the states of NSW and Victoria and a handful of areas in South Australia.

Only a small proportion, six per cent (5.5 million hectares) of the National Reserve System (NRS), is currently within a management category of 1b Wilderness Area (Ref: Garrett letter, 2 Dec, 2008).

The 'large intact natural areas' of the National Reserve System outside the 1b category reserves are being fragmented by technology-based visitor use. Wilderness is probably Australia's most endangered natural resource, being inadequately protected, even within the NRS. For this reason and to reverse the trend toward fragmentation of large intact natural areas, wilderness should receive an additional layer of protection and management. This independent review of the EPBC Act should consider measures to address this need for wilderness protection and management through its recommendations for reform.

Adequacy of existing wilderness protection measures

The Interim Report on page 229, paragraph 14.43 asks the reader whether there is in relation to wilderness a "genuine regulatory 'gap' in the Act" that would necessitate a listing of National Environmental Significance (NES) for wilderness.

Paragraph 14.44 on the same page correctly notes that there exists an IUCN reserve category in the current EPBC Regulations for the Act. Nothing in the EPBC Act or its Regulations, however, requires protection of wilderness values, either through development control measures relating to controlled actions or through park management provisions specified under the Act or its regulations.

A regulatory gap exists for National Parks reserved under the National Forest Agreement¹, as large intact natural areas (wilderness) are being fragmented by reserve management actions in these national parks. In the case of Kakadu National Park, loss of wilderness values is likely to occur if a draft tourism masterplan that proposes visitor facility development in a former wilderness zone for that park is adopted unamended.

Wilderness is probably the only natural value in the NRS to be so regularly overlooked by reserve management actions. All other values are usually considered. If large intact natural areas within Australian national parks are not being managed to retain integrity and prevent fragmentation, then the chance of adequate samples of wilderness in each state and territory being protected into the future are slight.

The recommendations of this independent inquiry should facilitate the permanent protection of wilderness. The Act should permit Environment Impact Assessment (EIA) to operate as an adjunct to permanent wilderness protection where reservation of these values may yet be achieved (e.g. Shoalwater Bay, where wilderness continues to be subject to a tyranny of small decisions).

Paragraph 14.43 of the Interim Report raises a second important point: "many areas that could fulfill the criteria for a 'wilderness area' would also meet the criteria for listing on the NHL." This remark is also correct, just as a world

¹ See paragraph 6.2 (a) (i), pg 104 – these wilderness areas are not reserved and managed as wilderness, except in NSW and while forest industry groups are supportive of the RFA, it has not operated to adequately reserve the wilderness the industry claim has been protected.

heritage area generally contains many national heritage values beyond those captured by an area's world heritage listing. The observation as it applies to wilderness, however, is significantly different and relates to the debate over 'values based conservation' versus 'property based conservation'.

The defining characteristic of large intact natural areas is that wilderness integrates heritage values across the landscape. If wilderness is not fully protected as a 1b reserve, all other subordinate National Heritage List values may be eroded, for example by road or infrastructure development, fire or pest management focused 'asset protection and human safety' rather than nature conservation objectives.

Paragraph 8.89 on page 145 the Interim Report notes the Foundation's observation of the role wilderness plays in the maintenance of ecological resilience when ecosystems deal with climate change pressures. Other references in the interim report note how habitat fragmentation may compromise ecosystem health (paragraph 3.71, pg 46; 4.242, pg 88; 8.68, pg 141; 10.33, pg 167; 14.40, pg 229; and 14.45, pg 230). Similar references in the Interim Report exist in relation to environmental degradation and ecosystem health.

Ecological resilience comes, in part, from limiting fragmentation and the development of human-focused facilities and infrastructure such as roads. It follows that the preservation of ecological integrity is assisted by wilderness management.

If you unpick wilderness into its constituent management prescriptions, what you produce is a regime of nature-focused reserve management applied to a reserve on a landscape scale.

Wilderness is a landscape or property-based heritage value, whereas the current heritage values specified by the criteria for listing on the NHL are, generally speaking, for particular attributes located in discrete locations. For this reason the view (Paragraph 14.43) that protecting other NHL values will protect wilderness is erroneous. Wilderness is often fragmented and degraded by inappropriate management while most discrete values protected by NHL criteria can be in the short term protected.

Further, the forces spoiling wilderness (and NHL values in the longer term) arise from modern society's impositions upon the natural world, including areas within the NRS. Our failure to see these impacts may be due to our perpetual immersion in modern material society. The continued existence of wilderness is imperative to our perception (or at least the possibility of perception) of a broader reality beyond our cultural selves.

Only humanity is arrogant enough to live as if 'creation' belongs to us, not us to 'creation'. Those who deny wilderness actually live in denial of the universe, except for that very tiny, almost insignificant minor planet where humanity has succeeded in substantially modifying large parts of the biosphere to our ends. Continuation of our denial of our relative unimportance (humility) and the ongoing modification of our small planet is likely to result in the extinction of our species all the sooner. The preservation of wilderness in the biosphere, on the otherhand, is a talisman for the future.

The elimination of wilderness from the NRS (and our disregard for this loss) is a very serious concern as Australian society is one of the few with the capacity to protect wilderness.

Hard as it is to grasp, 'creation', the universe and all that, is not a 'cultural construct' adaptable to post modern thinking. The 'cultural constructs', in the

form of roads, off-road facilities and resorts, start to compromise NES values when wilderness is not protected or managed in the NRS!

The mistaken view that there is lots of wilderness left is a function of what I call the 'inverted road map' approach to wilderness, as identified by the National Wilderness Inventory. Yes, many deserts remain roadless, but in terms of ecological naturalness, many of these areas are not in a wilderness condition and are crying out for some form of nature-based management, such as culling camels (and, feral horses).

There is a regulatory gap in the EPBC Act in relation to wilderness. this gap cannot be overcome by further reductionist thinking that plagues the protection of NHL values under the EPBC Act or by having an unused IUCN 1b reserve category in the Act's regulations.

Noting the above regulatory deficiencies, the Colong Foundation proposes the following measures²:

1. Identify all large intact natural areas in the NRS that are capable of restoration to a wilderness condition given appropriate management action.
2. Reduce the loss of wilderness values by making Wilderness a criterion for National Heritage listing and then take the steps necessary to encourage the areas so listed to be subsequently reserved as IUCN category 1b reserves (wilderness area).
- 2A Alternative: confine listing of wilderness as a National Heritage criterion to the large intact natural areas within the NRS.
3. Designate wilderness areas *inside* Commonwealth reserves, World Heritage Areas and properties listed as National Heritage List Areas either by a zoning scheme, gazettal or declaration as 1b category equivalent reserve to set these areas aside from development and fragmentation.
- 3A Alternative to a 1b category wilderness designation for certain more controversial reserve areas *inside* Commonwealth reserves, World Heritage Areas and National Heritage List Areas: constrain actions, such as certain technology-based visitor facilities, to certain 'disturbed areas'. The areas not designated as 'disturbed' could be termed a 'large intact natural area' where controlled actions would not be permitted.

Approval of *controlled actions* could be restricted in World Heritage Areas and National Heritage List Areas to 'disturbed areas' that are designated by management authorities as being incapable of ecological restoration and which are not needed for the essential management of large intact natural areas.

This location prescription for development control, while strategically directing development to less sensitive areas, does not encourage wilderness management for large intact natural areas. The integrity of large intact natural areas in the NRS would continue to decline, albeit at a slower rate.

The 'large intact natural area' designation would mean that *controlled actions* (or a subset of *controlled actions*) would be prohibited outside the designated

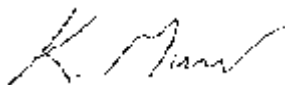
² Apart from NSW, the target of 90 per cent of forest wilderness reserved under the National Forest Policy in other states is not secure and being eroded by inappropriate park management and the 'tyranny of small decisions'. The situation for non-forest wilderness in the NRS is worse.

'disturbed areas' – effectively wilderness protection as far as development is concerned but without the wilderness management.

4. As with alternative 3A above, the designation of wilderness as a '*matter of national environmental significance*' could also provide additional regulation for those NRS areas **outside** existing Commonwealth reserves, World Heritage and National Heritage List areas by amendment of the EPBC Act (the head of power being the Convention on Biological Diversity and a Federal Statute precedent for wilderness under this Convention which already exists). In this instance, EIA could require consideration of wilderness values as decided by the Minister, for actions that may impinge on wilderness values.
5. In relation to Strategic Planning, Bioregional Planning and public inquires under the Act, *establish moratorium provisions* that could be triggered to protect large intact natural areas.
6. Amend the bioregional approach to building the NRS and Caring for Our Country program, so that these initiatives focus on improving the protection and management integrity of the large intact natural areas. The case for this is based upon 'island biogeography theory', that larger more intact reserves are better than smaller more fragmented ones, as detailed by Brendan Mackey et. al³.
7. Include wilderness within the funding criteria for Caring for Our Country and encourage state agencies to perform wilderness protection and management measures as part of Caring for Our Country applications, and consider synergistic opportunities through an appropriate funding package. (Encourage state government agencies to make funding applications under the Caring for Our Country initiative for wilderness assessment, protection and management measures in the NRS).
8. As part of any further National Landscapes initiative, the Federal Government should develop Policy on Tourism and National Parks to ensure tourism facilities avoid areas of high wilderness value or potentially high wilderness value, and are instead encouraged to establish off-reserve within the general region. (A further independent and detailed briefing on this last point can be prepared upon request).

Thank you for the opportunity to make this submission.

Yours faithfully,



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³ Mackey, B.G., Lesslie, R.G., Lindenmayer, D.B., Nix, H.A. and Incoll, R.D. (1998) The Role of Wilderness In Nature Conservation. A report to the Australian and World Heritage Group, Environment Australia. School of Resource Management and Environmental Science. ANU Canberra.