



Northern
Territory
Government

DEPARTMENT OF
NATURAL RESOURCES, ENVIRONMENT, THE ARTS AND SPORT

Our ref D2008/0945
Your ref

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Secretariat
Independent Review of the EPBC Act 1999
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Dear Sir / Madam

The Department of Natural Resources, Environment, the Arts and Sport is responsible for conserving, enhancing and ensuring best possible access to, and enjoyment of, the Territory's natural and cultural assets. This includes native wildlife and habitats, renewable natural resources including water and natural landscapes, historic buildings and places, scientific and cultural collections as well as promotion and development of creative communities.

The agency is also entrusted with conserving, monitoring and ensuring that these resources are used sustainably.

There is therefore considerable interaction with the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

Comments on particular aspects of the EPBC Act and its administration are attached.

The review website indicates that consultation with Government will be held during the course of the review. We look forward to discussing any of the matters raised below should you wish to do so.

The contact officer for this Submission is Lyn Allen, Executive Director Environment, Heritage and the Arts who can be contacted by telephone on 08 8924 4135 or email lyn.allen@nt.gov.au.

Yours sincerely

LYN ALLEN
A/Chief Executive
31 December 2008

Scope of the Act

The Act represents a major advance over the previous Commonwealth arrangements and is generally working well. It is constrained from being able to take a truly national approach to existing and emerging environmental issues by constitutional matters and by the inevitable tensions in Commonwealth-State relationships.

Issues of national environmental significance reflect international treaties in place in 1999, and do not necessarily enable a timely response to emerging issues that require a national response.

There are some anomalies in the listed species which should be amended, including the listings of freshwater crocodiles and magpie geese as marine species.

The EPBC Act would benefit from having a clearer and explicit process for monitoring biodiversity and environment protection outcomes.

Assessment and Approvals

The Northern Territory Government has had an EPBC bilateral for environmental assessment in place since 2002. Generally, the bilateral works well for government, project proponents, and the public. Decisions about process are made in consultation with DEWHA to ensure areas of information gathering and review are complementary. In circumstances where both the Territory and Commonwealth require environmental assessment for the same project, but the bilateral does not apply, administrative arrangements have been agreed so that the proponent and public are faced with a single process.

Delays in the assessment process can arise when proponents do not refer their projects to both levels of Government at much the same time. There is scope for the referral process to be made more efficient through standardising the processes and timeframes used.

The recent emphasis on strategic assessments and the potential for bilateral agreements to deal with issues beyond environmental impact assessment, could result in further streamlining the administration of the Act, and will bring potential benefits for project proponents and those seeking approvals under the Act. In the short term, this shift is likely to generate pressure on State/Territory jurisdictions, which are expected to bear the costs of developing such assessments and agreements.

As part of the COAG business reform agenda, the Northern Territory Government will identify a timetable for developing strategic assessments by mid-2009.

The Northern Territory Environment Protection Authority (EPA) has been directed by Government to examine and make recommendations for improving the assessment and approval processes under the NT *Environmental Assessment Act* for major development proposals. It is envisaged that the investigation will take approximately 12 months to complete. As part of that investigation, it could be anticipated that the EPA will examine in some detail the current interactions with the EPBC Act, and potentially make recommendations for changes.

Biodiversity

For biodiversity conservation, the Act focuses far more on species and ecological communities after they become threatened, rather than prior to threats emerging.

While the Act includes consideration of biodiversity monitoring and bioregional planning (ss 171-177) which are critical components for the conservation of biodiversity, neither has been substantially or successfully implemented. It is not clear whether this is a product of deficiency in the wording of the Act (particularly its brevity and limited scope), or of its application. It would be useful to develop mechanisms to improve the delivery of biodiversity monitoring (particularly integrated and national-scale monitoring) and bioregional planning. Providing more attention to these issues would help address core pressures on biodiversity, redressing in part the special focus in the Act on the symptoms of those pressures (such as threatened species).

DEWHA and NRETAS have a partnership in place to reconcile threatened species lists between the jurisdictions, and there are now few anomalies or inconsistencies between the lists. The Commonwealth lists would benefit from a process for periodic review so that these lists regularly reflect new information about status.

The Northern Territory Government supports sustainable use of native animals and plants, particularly where this can strengthen the potential for Indigenous communities to generate income from their environment.

Protected Areas

The Northern Territory Government supports the concept of a comprehensive, adequate, representative and resilient national reserve system. It is recognised that jointly managed reserves and Indigenous Protected Areas will play an increasingly important role in the reserve system. It is also recognised that there will be regional differences in arrangements for such areas. Commonwealth programs supporting the reserve system should therefore be sufficiently flexible to take local circumstances into consideration.

The current Northern Territory Government supports the concept of world heritage listing, and is working towards having the West Macdonnell Ranges nominated for such listing. In the past, Australia has tended to nominate areas for their natural values. More could be done at the Commonwealth level to develop expertise and experience in identifying and promoting cultural values.

To date the new arrangements for listing national heritage places have been ad hoc rather than strategic. This seems inevitable when nominations are made by members of the public on an individual site basis. The process for listing national heritage places would benefit from some mechanism for mutual recognition of Territory listings, to avoid duplication and to enable greater exchange of information between the Commonwealth and Territory heritage procedures.

Indigenous Involvement

As noted previously the Northern Territory Government supports Indigenous use of native plants and animals, and views these as an opportunity for income generation. It also supports the joint management of parks and reserves. Both Governments have

initiatives aimed at closing the gap of Indigenous disadvantage. The review of the EPBC Act should ensure that measures are designed with this policy agenda in mind.

Compliance and Enforcement

It is recognised that the Commonwealth has recently augmented its capacity for compliance and enforcement under the Act. This additional capacity is welcomed, as there has been at least one instance in the Northern Territory (Tiwi Island forestry) where Commonwealth conditions have not been adequately monitored or enforced. The subsequent investigative process and discussions of remedy were not conducted in close contact with Northern Territory Government agencies. There appears to be considerable scope for much closer cooperation between the jurisdictions.