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Dr Allan Hawke
Independent Review of the EPBC Act 1999
GPO Box 787
Canberra ACT 2601

Dear Dr Hawke,

thank you for the opportunity to make a submission on the review of the EPBC Act.

I am making a brief submission in order to meet the review deadline for public submissions but can expand on its content if required.

As I am environmental policy professional, with an original training in ecology rather than law, my submission will focus on areas of potential enhancement in the Act rather than on the mechanics of how these changes might be made legislatively. I will leave the latter to those better qualified to do so.

The review of the EPBC Act does allow the federal government the opportunity to introduce and apply its concept of 'new federalism' to environmental policy, planning and management and I hope the federal government seizes this opportunity in at least the two areas I outline below.

My submission is going to focus on only two specific areas that the Act could cover rather than on an overall review. The two policy areas cover marine and coastal environments and national parks and protected areas.

My basic premise is that both these policy areas are "matters of national environment significance" and hence need to have national policy and procedures covering them.

The basic case I make in both of these areas for treatment at the national level, and hence potentially to be covered by a revised EPBC Act, arises from two submissions I have made over the last few years to parliamentary committee inquiries. The covering letters for both submissions are appended to this letter as attachments (Attachment A for marine and coasts, Attachment B for national parks and protected areas) and the full submissions can be supplied on request. I will now summarise the points made in these attachments as my submission to this review.

Marine and Coastal Environments.

Currently "Commonwealth marine areas" are covered under the Act and this has allowed the Commonwealth to begin delivering Australia's Oceans Policy through a Regional Marine Planning process initially as separate process but more recently through the preparation of Section 176 bioregional plans. (Australia's Oceans Policy is the nation's way of delivering our obligations under the UN Convention of the Law of the Sea which has allowed us to claim a sea area twice our land mass for exploitation and protection).

Unfortunately the States and Territories and the Commonwealth have failed to come to arrangements which would allow Regional Marine Plans to cover all marine waters (i.e. including state jurisdictional coastal waters) and hence we have environmental management discontinuous over an artificial 'line in the sea' between the two jurisdictions (in some fisheries there have been co-operative arrangements).

The internationally recognised concept of integrated oceans and coastal management (built on integrated coastal zone management) identifies the need and benefits for broad scale planning and management based on ecological and not political boundaries.

In short this review offers the opportunity to attempt to find a mechanism for integrating ocean policy (exclusively Commonwealth at present) with coastal zone policy (virtually exclusive State and Territory at present).

In my submission to the House of Representatives Standing Committee on Climate Change, Water, Environment and the Arts' inquiry into the impact of climate change on coastal communities (Attachment A) I have outlined a four point plan for a stronger role for the federal government in coastal policy and have linked this to the Commonwealth's existing role in ocean policy .

Basically that submission proposed a national coastal policy which would have four key elements:

- (i) a National Ocean and Coasts Act;
- (ii) a statutory Australian Coastal Strategy;
- (iii) a statutory Australian Coastal Council;
- (iv) a Coastal Resourcing Policy which provides at least matching national funds for infrastructure and community projects that is consistent with the Australian Coastal Strategy (which in turn would be based on ICZM and Ecologically Sustainable Development, ESD, principles).

(See Attachment A for reasoning and further details).

In terms of this review the question which is raised is: should the contents of the proposed National Ocean and Coasts Act be incorporated into a revised EPBC Act?

In favour of such an approach would be the desire to minimise the number of pieces of separate legislation covering national environmental matters (the origins and intent of the first EPBC Act).

The reason for separate legislation is more of a case of giving the marine and coastal environment the profile and recognition that it has not had in the past at the national level before or after the EPBC Act, a position supported by the most important coastal policy review carried out at the commonwealth level- Resources Assessment Commissions massive Coastal Zone Inquiry in 1993. The lack of legislative support for coastal policy at the national level has meant that the Commonwealth has not taken a strong role in coastal planning and management despite the critical impacts present and into the future of climate change and 'sea change' (coastal development).

In terms of your review the question is whether the governance arrangements proposed in my House of Representatives submission, which I believe are critical for effective coastal planning and management in Australia, can be incorporated into a revised EPBC Act?

At present no matter how attractive in theory such incorporation would be I remain to be convinced that it could be successfully carried out. Nevertheless I put forward this proposal for national coastal policy approach in the hope that you may be able to revise the EPBC Act to give effect to the intent of my four point plan.

National Parks and Protected Areas

As you are aware the vast majority of national parks and other protected areas in Australia (on land and in coastal waters) are planned and managed by State and Territory governments under the Australian Constitution. Globally this is an unusual if not a unique governance approach – in most places for example the word "national" in national parks not only refers to being of national significance but also planned and managed by the national government.

Commonwealth parks come under the current EPBC Act.

In the attached submission (Attachment B) to the Senate Inquiry into "Conserving Australia: Australia's national parks, conservation reserves and marine protected areas", whose recommendations were published in April 2007, I made a case for protected areas of true national significance (in the sense of a CAR reserve system – CAR = comprehensive, adequate and representative) to be fully funded and planned by the Commonwealth government.

The concept would be that in this revised National Reserve System these peak and critical reserves would be identified in Commonwealth legislation and the Commonwealth would, in complete cooperation with the relevant State Government, plan these reserves and pay all costs of planning and on-going management.

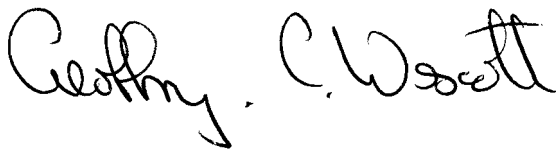
The States and Territories would still manage these areas under their existing protected area legislation in accordance with the agreed Commonwealth – State Management Plan prepared under a revised EPBC Act.

Other protected areas not granted this 'national environmental significance' role would continue to be planned, managed and paid for the State and Territory government.

This would deliver Australia a first class national park and protected area system and a much better funded one if the proposals I suggested in my submission to the Senate were adopted.

Thank you for this opportunity to contribute to this critically important area of public debate. I wish you well in your review and again can I emphasise that I have kept this submission brief but would be very happy to elaborate on the proposals put forward here at a later convenient time and place.

Yours sincerely

A handwritten signature in black ink that reads "Geoff Wescott". The signature is written in a cursive style with a large initial 'G' and 'W'.

Assoc. Professor Geoff Wescott.

Attachments A and B form part of this submission.

17 December 2008

ATTACHMENT A

The Secretary,
House of Representatives Standing Committee on Climate Change, Water, Environment and
the Arts,
Parliament House,
Canberra.

Dear Committee Members

Thank you for this opportunity to make a submission to your critically important inquiry into climate change and the environmental impacts on coastal communities.

I have been involved professionally in Australia Coastal Management issues for thirty-five years since working on the Public Interest Research Group's Victorian coastal environment study in the summer of 1974-1975 (published as "A Coastal Retreat", PIRG 1977) and so I am delighted for this opportunity to assist you in your deliberations. If I can assist in ways other than this submission please do not hesitate to contact me.

I have attempted to layout this submission to make my points and information easily accessible to members. For the sake of brevity I have focussed on the first and last terms of reference. The in-depth material on which these points are based is appended in full (Appendix A). A list of reference material which maybe of use to the Committee is attached as (Appendix B) and a summary of my marine and coastal experience is attached as (Appendix C).

There may well be material in Appendix C that is of particular interest and relevance to your deliberations. Please peruse this summary and contact me if the provision of further information /comment would be helpful.

Commonwealth (Dis-) Engagement in Coastal Planning and Management in Recent Years

After a series of high-quality recommendations made in House of Representative Committee inquires (eg. 1980, 1991) and the recommendations of the RAC Coastal Zone Inquiry (1993) it has been disappointing to see the disengagement of the Federal Government from coastal policy since the mid 1990's (see Wescott, 2006, in press: Appendix attachments A1 and A2).

Whilst the framework established under the "National Cooperative Approach to Integrated Coastal Zone Management (ICZM)" identified critical issues on the Australian coast it was very much a case of "policy without implementation" – a good framework but no practical means of implementation was specified.

Similarly the opportunity offered by the production of Australia's Ocean Policy to then integrate (from the seaward side back to land) the Ocean Policy with a Federal Coastal Policy was lost through Commonwealth disinterest (See Wescott, 2002, Appendix attachment A3). This opportunity to integrate the catchment-coastal-ocean continuum resurfaces with your inquiry: catchment policies have been the major focus of NRM for a decade and are quite well developed, the Oceans Policy still exists, (even if it is in need of a revamp) but the missing link between them is the national policy vacuum around coastal policy.

The potential impacts (which I have referred to in public forums as the "pincer movement") of coastal overdevelopment on the land and sea-level rise from the seaward side creates the perfect opportunity for a federal coastal policy to be instigated.

A Proposal for an Australian Coastal Policy

This national coastal policy should have four key elements:

- (i) a **National Ocean and Coasts Act**;
- (ii) a statutory **Australian Coastal Strategy**;
- (iii) a statutory **Australian Coastal Council**;
- (iv) a **Coastal Resourcing Policy** which provides at least matching national funds for infrastructure and community projects that is consistent with the Australian Coastal Strategy (which in turn would be based on ICZM and Ecologically Sustainable Development, ESD, principles).

Before dealing with each of these elements in turn (see also the four appendices) I would also highlight the striking parallel between the stage of progress federally in developing coastal policy now (2008) and that which confronted the State of Victoria in 1993 ("policy without implementation"). I refer you to the sequence of four papers that I have published on the Victorian experience (Wescott, 1993, 1995, 1998, 2006 – listed in full in Appendix D) and suggest you may find the parallels useful in your deliberations (copies of these papers are available on request)

Again please let me emphasise I am very willing to expand on any of this reference material for the Committee at any time during this inquiry.

Explanation and supporting material, for the four point Australian Coastal Policy

1. A National Ocean and Coasts Act.

Integrated Coastal Zone Management (ICZM) has been the international conceptual basis for the coastal zone planning and management (CZM) for 15-25 years. The notion of "vertical integration" of coastal zone planning and management highlights close cooperation and coordination of all three tiers of government: national, state and local. In Australia constitutionally the States and Territories have played the major role in CZM with local government also been an important player (although local government's role and importance varies considerably between the States and Territories).

In Australia, in 'vertical integration' terms, it has been the Australian (national) government that has been "missing in action" - despite the excellent recommendations on a potential national

government role made in numerous coastal zone inquiries. This Act would clearly establish and codify the national governments role in CZM.

The second component of the need for national legislation is to link coastal zone policy (a predominantly State level responsibility) with oceans planning and management policy (a national level responsibility) – an element of “horizontal integration” in the language of ICZM - through integrated oceans and coastal management.

Australia's recent experience in attempting to implement our Oceans Policy (one I have been closely involved in as a representative of the Marine and Coastal Network on the National Oceans Advisory Group) highlights how the best of intentions cannot deliver integrated whole of government action in the absence of statutory support.

Australia needs a distinctive and separate piece of legislation if it is to achieve both the integration of coastal zone and oceans management and to adequately plan and manage the coast in a time of intensive pressure on the coastal environment through increased coastal development and potential impacts of human – induced climate change.

All the good intentions and actions at State and local level in the past have not delivered on these two key challenges of coastal development and climate change – the time is ripe for separate strong legislation: a National Oceans and Coasts Act.

2. A statutory Australian Coastal Strategy.

The national cooperative approach to ICZM covers many important issues. What it does not do is specify precisely what actions are to be covered by which agency (acting as a lead agency) and give any deadline for delivery to be completed. The Victorian and NSW experience in particular highlights that unless there is a statutory integrated Strategy, written with considerable (and statutory) direct public input there is little likelihood of established sectorially based agencies implementing it. The involvement of the public is also crucial to giving the community some “ownership” of the resultant Strategy and encourages a sense of stewardship of the coast by the community. Such a Strategy establishes the basis for uniform standards and uniform delivery of coastal planning approaches across the country.

3. A statutory Australian Coastal Council.

Here I will refer you to the appended report prepared for the Coastal CRC Stakeholder Reference Group in late 2005 (Appendix A4).

In this report I cover the range of alternative structures a national Coastal Council might take and also in the opening pages make a strong argument for the need for such a Council to be established (see pp. 1-3 of Appendix attachment A4).

4. Coastal Resourcing Policy.

Whilst in the two major attached documents (Appendix attachments A1 and A2) I emphasise that it is critical that decisions about coastal matters need to be made at the lowest possible level of government which will yield an outcome consistent with principles of ICZM and ESD – a point made in the national cooperative approach as well – the chosen level of government may be inhibited by a lack of funds to perform its role adequately.

Hence the national government needs to provide funds (possibly matching funds) on a long term secure basis to ensure there is adequate resources and infrastructure to meet the two great coastal challenges of the next decade: coastal development and potential impacts of climate change (sea-level rise, increased storm surge and cyclone activity).

In conclusion a comprehensive and integrated Australian Coastal Policy requires a statutory basis (the Oceans and Coast Act) to be taken seriously by sectoral agencies and by all levels of government. It requires a clear statutory implementation program (the Coastal Strategy) and a agency (the Coastal Council supported by advisory groups and the public service) to “champion” that program and to prepare and monitor its implementation and finally it needs the funds to ensure that this vital program is actually delivered in practical ways, on the coast, where it really matters.

This is the four point program I urge you to adopt.

I would be delighted to discuss these four points and any other matters with you further at your convenience.

Yours sincerely

Dr Geoff Wescott
Associate Professor of Environmental Management

Appendix E (attached hard copy only) is two relevant copies of “Waves”, the newsletter of the possibly soon to be defunct Marine and Coastal Community Network.

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Deakin University
221 Burwood Highway, Burwood, Victoria 312

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Deakin University

(Please Note: the text below was sent as an email on 28 Feb. 2006. The attachments below were not available electronically and hence this 'hard copy'.

Dear Sir/Madam:

Thank you for this opportunity to make a submission.

I must start with an apology – this submission is nowhere near as detailed or comprehensive as I would have liked it to be given my experience and involvement in Protected Area management over the past 25 years. (See below).

This inadequacy in the submission is due to a whole series of external factors. But what I have tried to do below, and in the attachments, is to ensure that I have forwarded a basic submission by the closing date and if you are interested I can further discuss and/or expand on these points later in the process.

First may I briefly outline my experience in the field. I was the Deputy Chair of the Board of Directors of Parks Victoria in 2003 and 2004 and a member of the Board from 2000 to 2004. I was a member of the Audit and Risk Management Committee of the Board throughout this period and Chaired that committee in 2004. Previously I had been the Chair of the statutory Victorian National Parks Advisory Council from 1986 to 1993 and was a member of the Council from 1983 to 1993. I have been a member of the World Commission for Protected Areas of the IUCN since 1990 and have attended the two most recent World Parks Congresses of the IUCN in 2003 (Durban) and 1992 (Caracas). Last year I was a Theme Coordinator and a member of the Program Committee for the First International Marine Protected Areas Congress and have been involved in MPAs in Victoria for 20 years and at a national level through my membership on the National Oceans Advisory Group since 1999. I have also been a member of the Victorian National Parks Association since 1975 and have served on their Council.

I have attached copies of three papers (two of which are now some what dated) in which I will base the proposal I wish to put to this Inquiry.

The basic proposal I wish to put to the Inquiry is outlined in a more basic form on pages 338-339 of Paper 1 (Australia's Distinctive National Parks System: attached).

Australia needs to establish a properly resourced, truly national, park system. In particularly interstate rivalries and 'point-scoring' between the Commonwealth Government and the State and Territory Governments need to be put aside in the

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interests of planning and managing a world class national park system which is properly resourced and has as its clear an unequivocal primary objective: nature (biodiversity) conservation. (Biodiversity is a rather limited term in this context as one of the obvious features of Australia's parks is that geology is critical to their splendour, beauty and ecological uniqueness).

To establish such a system will require the Commonwealth and State Governments to rise above petty politics and bureaucratically overbearing contracts and act in the national interest.

There is no doubt that the current funding of parks and protected areas in Australia is inadequate. You will be given various figures / data on this from various sources much better informed than I. But in Paper 1 (attached) I draw your attention to Table 3 on page 338. The Australian data is drawn from the much larger table on page 334 (Table 2). One unfortunate feature of modern Government accounting and reporting practices is that if I was to try to repeat these tables (or the even more detailed Table 6, page 216 in Paper 2, showing over 20 years of continuous data from Victoria) I could no longer do so. Below is a slide I present to Year 1 students:

Money Spent on Park Management:

From Marc Hockings of the University of Queensland, July 1998:

<u>Country/region:</u>	<u>\$ spent per sq km:</u>
Australia	359
S & SE Asia	390
Global ave.	776

<u>Country/region</u>	<u>Staff per 1000 sq km:</u>
Australia	2.6*
Global ave.	24.5

* = lowest in the world.

Why is this the case?

I refer you to a detailed discussion on pages 338 and 339 of Paper 1. The situation remains essentially the same. In brief a State funded system has increased substantially in size in the last quarter of the last century (see Table 1, page 333 of Paper 1 and for Victoria, Paper 2 Table 1, page 212). This has occurred at the very times that State Governments (of the older states in particular) had to increasingly spend more of their funds on ailing infrastructure AND meet increasing health,

education, police and transport costs in particular. To put it another way: the State expenditure "pie" was decreasing in size at the very time that parks and protected areas were expanding, leaving the parks with a slightly increasing 'slice' of a smaller pie.

During this time the Commonwealth Government was nowhere to be seen. After a brief flurry / engagement on the possibility of a National Ecological Reserve System (Fenner, 1975, Paper 1 page 340) the Commonwealth has shown little interest since in providing funds to assist in the operational costs of running Australia's (i.e. the national protected area system. (The funding of procurements for the National Reserve System is a story in its own right. This program has primarily supplied funds to often comparatively well off State governments to purchase land etc that other less well funded governments have had to use their own funds to establish).

In conclusion I propose that:

- 1) all governments sponsor an analysis of the existing national parks and protected areas in Australia, and based on the CAR approach **identify the existing parks in Australia which would form the basis of a national ecological reserve system (almost "super" national parks if you like).**
- 2) That the Commonwealth Government enters an agreement with the State and Territory Governments to fund the parks that form part of this National Park system at a new and adequate level to meet their primary objective of nature conservation (this will include such critical individual matters such as the control and eventual eradication of introduced plant and animal species).
- 3) This level of funding should be bench marked at the Canadian or similar level and the aim should be raising it to this level of funding within a three year period.
- 4) The State and Territory Governments (as the governments with the park management experience and knowledge already in hand) would continue to directly manage these parks (although the Federal funding would be clearly identified in the parks as it is in road funding projects)
- 5) That in turn the State and territory Governments would agree to transfer the funding currently provided for these national protected areas to other protected areas in their States and territories (to avoid cost shifting) and all governments would agree to increase the operational funding annually across all parks by at the least CPI plus 1 % (to increase real funding over time.). I can brief the Inquiry here, if interested, in a similar transfer which occurred when Parks Victoria was established concerning metropolitan and rural parks in Victoria. Also I can brief you on the Melbourne Park Levy as an example of an alternative source of some park funding which has been obtained with very little complaint from the tax / rate payers.

- 6) I emphasise that the proposed approach above would require genuine cooperation between governments and for example the Commonwealth Government would have to resist its historical temptation to provide funds with incredible layers of bureaucratic conditions and the State would have to resist the temptation to see the whole exercise as 'cost shifting' out of park management.

The objective in this proposal is to establish in terms of QUALITY of management (rather than simply beauty and splendour) a well resourced World Class National Protected Area System (see the discussion on this challenge in Paper 2 for Victoria).

The Australian tax payer deserves no less and certainly does not deserve any bickering between levels of government in such a critically important area.

Unfortunately I have run out of time to discuss MPAs in detail but I have appended a paper (Paper 3 attached) which I have submitted for publication which may be of some interest. In general the major issue is the funding of operational management of these MPAs – most work outside the GBR Marine Park has concentrated on obtaining and then planning a MPA system and now the emphasis needs to shift nationally to funding the MPA system. It would be wonderful if the Commonwealth would look at the lessons from the terrestrial park system and not repeat the same mistakes as outlined above.

Thank you again for the opportunity to contribute.

Yours sincerely

Associate Professor Geoff Wescott B.Sc. (Hons), M.Sc. (Melb) M.Sc. (London) Ph.D. (Deakin). FEIA, MIBA.

Attached: ONLY HARD COPIES AVAILABLE FOR Papers 1 and 2 so posted 28/2/06.

Paper 1: Wescott, G. 1991. Australia's Distinctive National Parks System. *Environmental Conservation* 18: 331-340

Paper 2: Wescott, G. 1995. Victoria's National park System: can the transition from quantity of parks to quality of management be successful? *Austn. J. of Environmental Management*: 2: 210-223.

Attached Paper 3: Wescott, G. (submitted to *Ocean and Coastal Management*) The long and winding road: the development of a comprehensive, adequate and representative system of highly protected marine protected areas in Victoria, Australia.