



**The Goolwa to Wellington Local Action Planning  
Association Inc.**

**Submission to the Independent review of the Environment Protection and  
Biodiversity Conservation Act (1999)**

*(Extension for submission until January 20<sup>th</sup> 2009 approved on December 19<sup>th</sup> 2008)*

**January 16<sup>th</sup> 2009**

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## **Introduction**

The Goolwa to Wellington Local Action Planning (GWLAP) Association is a not for profit community based umbrella organisation with the primary role of managing natural resources and supporting community and community group involvement in natural resource management across the South Western Corner of the Murray Darling Basin. The GWLAP Planning area covers approximately 265,000 ha and encompasses all the plains and catchments adjoining and terminating in Lake Alexandrina at the mouth of the River Murray between the towns of Goolwa and Wellington. The administrative boundaries include the Alexandrina Council, large parts of the District Council of Mount Barker, The Coorong Districts Council, and the Rural City of Murray Bridge Council, and small areas of the Adelaide Hills Council and Barossa Council municipalities.

The Goolwa to Wellington LAP area contains large areas of the following EPBC listed vegetation communities;

- Fleurieu Peninsula Swamps,
- Peppermint Box (*Eucalyptus odorata*) woodlands,
- Irongrass (*Lomandra effusa*) grasslands.

The GWLAP area also supports the following EPBC Listed species;

- Mt. Lofty Ranges Southern Emu Wren (*Stipiturus malachurus intermedius*),
- Menzel's Wattle (*Acacia mezei*),
- Resin Wattle (*Acacia rheticarpa*),
- Silver Daisy Bush (*Olearia pannosa subsp pannosa*).

In addition the GWLAP area contains the Ramsar Listed water bodies and wetlands of Lake Alexandrina and Lake Albert, also protected under the EPBC Act.

Over the past decade the GWLAP has played a lead role in the protection and management of biodiversity assets across the GWLAP area through the implementation of the Local Action Plan. This plan was developed by the community and includes actions to promote effective soil management, improve water quality, implement revegetation projects, undertake stream bank restoration, facilitate the development of biodiversity precincts, and in doing this, build the communities capacity and skills to manage natural resources effectively through education and awareness activities. Many of these works and activities have been undertaken within Ramsar and EPBC listed areas and vegetation communities and as such, the GWLAP recognizes the importance of the act in providing a legal framework for conservation of significant and endangered biodiversity assets in Australia. We would like to make comment on the following areas

of the EPBC Act that we feel could be improved, or to which we have found to be restrictive to achieving beneficial conservation actions under the EPBC act;

1. Public response to referrals.
2. Assessments & Approvals.
3. Cumulative impacts of developments
4. Compliance & Enforcement.
5. Significant Environmental Benefits (SEB) Offsets.
6. Overriding legislation.
7. Summary.

Each of these topics will be addressed separately below.

## **1. Response to referrals**

In recent years there have been several referrals relating to the Ramsar listed Lakes Alexandrina and Albert. Public response to these referrals has been of a good level however the timing of the referral submissions has hindered the level of public comment that might have been attained. For example, and on two occasions in this area alone, referrals lodged under the EPBC Act for actions that would severely and detrimentally alter the ecological character of these Ramsar Listed sites were lodged a few days prior to Christmas. We understand that this is within the referral guidelines however the referral timing excluded many people from the referral process. This in turn limited the amount of detailed local information and legitimate view points that could be provided to the Federal Government to assist in the decision making process on the level of assessment that would be required for each referral.

We would not like to suggest that a Christmas moratorium be placed upon referrals, however, we do believe that the time for public submissions on referrals should be lengthened from the current 10 working day period. The proponents of referrals have as much time as they like to research, prepare, and then lodge a referral, respondents have a very short time in which to research, prepare and lodge submissions. This seems to be a failing of the act as this short time frame discourages people from making submissions due to lack of time to adequately research and prepare a submission document. It is our belief that the Federal Government assessment process is therefore not receiving as much valuable information as it could be to help guide the minister's decision on the level of assessment required.

## **2. Assessments and Approvals.**

The assessment and approval process can be perceived to be skewed in favor of the proponent where State Government agencies have responsibility to undertake assessments

Under the EPBC Act processes undertaken by State Government agencies may be accepted as fulfilling the needs of the act. This deferral to state assessment processes is perceived to allow a dilution of the efficacy of the Act, especially when there is a vested interest in government to see the development proceed. This has been the case on several occasions in South Australia where the native vegetation council has deferred assessment responsibilities for mining developments to the State Government

Department, Primary Industries and Resources SA (PIRSA), who undertook assessments in conjunction with their consultancy arm, Rural Solutions S.A., who are a State Government owned consultancy. We do not see it as appropriate that PIRSA or Rural solutions be charged with managing assessments for mining operations given that PIRSA's charter is to promote and facilitate mining in the State. Nor do we see it as being appropriate for Rural Solutions to undertake assessments on behalf of PIRSA as they are part owned by PIRSA. This may also be true for any government department where a government as a whole has the primary objective of economic development.

It is our belief that all assessments under the EPBC act should be subject to assessments made by completely independent third parties.

### **3. Cumulative Impacts of developments**

The GWLAP has an established and well recognized program of works and delivery of community support across five major catchment areas of the Eastern Mt. Lofty Ranges in South Australia, and as such observe many developments being undertaken in the region. It has become evident over many years that the cumulative impact of these developments has been to cause gradual degradation of EPBC listed vegetation communities in the area. We believe this to be as a result of each assessment being made in isolation at a local scale with no consideration for the cumulative impact at a landscape scale. Examples of this can be seen in the EPBC listed *Eucalyptus odorata* woodland areas of the GWLAP where mining enterprises, housing developments, increases in rural housing through changes to land ownership and tenure, and increased numbers of people undertaking motorised recreational pursuits such as off road 4WD and motorcycle activities as a result of the increased population, have seen a gradual but quite steady and noticeable decline in the quality of habitat and animal and bird species utilizing these woodland areas. Although only recently listed under the EPBC act, *Eucalyptus odorata* woodlands continue to decline in quality through the cumulative impacts of many developments.

It is our belief that the assessment process should take into consideration more adequately the cumulative impact of past developments on EPBC listed communities and species so that the gradual decline that we are witnessing can be averted.

### **4. Compliance and enforcement**

Although penalties apply to individuals and organizations who do not comply with the conditions set out in the EPBC act, it is very often the case that breaches of the act go unnoticed and as such contribute to the gradual decline of EPBC assets as discussed under the section titled 'cumulative impacts of developments'. We know of numerous properties where a change in land ownership has seen an increase in stocking rates on EPBC listed woodlands, around the Lower Lakes and Coorong Ramsar Listed area, and in Fleurieu Peninsula Swamps, where the increase in stocking rates has seen gradual but substantial ecological damage, in particular to the often inconspicuous and quite delicate understorey species. There is currently very little opportunity to enforce a

reduction of stock numbers to those of the previous owner as it is often difficult to quantify what historical stocking rates have been.

Another example is frequently seen when a change of land ownership sees the purpose of property ownership shift from agricultural to motorised recreational pursuits such as 4WD and motorcycle sports in terrestrial environments, and jet skis and speed boats in aquatic environments. These activities are collectively degrading EPBC communities and habitats and are reducing the effectiveness of the Act to protect Australia's valuable biodiversity assets. We believe that there needs to be a stronger compliance and enforcement push from those administering the EPBC Act to ensure all breaches to the act, both major and minor, are minimized.

## **5. Significant Environmental Benefits (SEB) Offsets.**

Although having the mechanism for SEB payments is an effective mechanism for developers to offset native vegetation clearance, it is our belief that this is often undervalued. Property valuations to determine the amount of SEB to be paid by a developer are based upon State Attorney General property valuation figures which often undervalue the market rate of property in the area by a significant amount. For example, Hillgrove Resources Kanmantoo Mine project areas were valued at the Attorney General's rate of \$600/ha. The market rate for this type of land in the same area at the same time was from between \$5000 / ha to \$6000 / ha. If the revegetation option were undertaken by Hillgrove resources it would have cost approximately \$4000 / Ha to see the revegetation established effectively. By using the State Attorney General property valuation figures, the proponent will always opt to pay to the SEB fund as it is far more cost effective for them. This in effect gives the proponent a loop hole to which they are able to minimize the payment made to compensate the environmental damage caused.

We believe that SEB payments to offset environmental damage and vegetation clearance should be based upon both the real estate market rates for land and the cost of implementing a comprehensive revegetation program that aims to reinstate all species removed in the structural and spatial arrangement of the cleared vegetation. Anything less is simply an exercise in visual amenity that sees a handful of species planted with little consideration for spatial and temporal arrangement and diversity within the planted area, and therefore has little ability to accommodate the plant and bird species that it is intended for as it does not meet their requirements for habitat structure and composition.

## **6. Overriding legislation**

We believe that one of the main factors that limits the effectiveness of the EPBC act is the ability in South Australia for projects with major development status to override the EPBC Act. We have seen on a couple of occasions in this state where the state Government has given major development status to projects it was either implementing or strongly favored. Given that local government policy can also be overridden by major development legislation, there seems to be very little in the way of checks and balances to ensure that a development is one that is necessary, and that is going to see a better outcome that could have otherwise been achieved through a more regulated process where independent review and assessment are undertaken. It is our belief that as the strongest environmental legislation within Australia, the EPBC Act should take

precedence over all other legislation with regard to those communities, designated areas and actions, and species listed under the act. The EPBC Act should always see third party independent assessment of proposed developments undertaken. Under any other course of action the act is limited in its capacity to deliver the intent and purpose of the for which the act was created.

## **7. Summary**

The Goolwa to Wellington Local Action Planning Board Inc. sees the EPBC Act as extremely important and critical in the protection of our unique Australian environment. There are at present however aspects of the act that need to be addressed to determine that the act is in fact effective in achieving the stated aims of environmental protection and biodiversity conservation. The gradual degradation of EPBC listed vegetation and aquatic communities is of concern as it largely goes unnoticed and is often not significant enough to trigger compliance action. It is cumulatively however degrading the EPBC listed communities and undermining the intent of listing the community under the act. The SEB offset arrangements seem to considerably favor the developer at this stage and also should be amended to reflect more accurately and appropriately the environmental damage being offset.

I would like to thank you for the opportunity to comment on the EPBC Act and also commend the Federal Government for undertaking this review.

Pleaser advise if you require clarification on any point made in this submission,

Regards,



Tony Randall

Program Manager  
Goolwa to Wellington Local Action planning Association Inc.

19 January 2009