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Review suggests improvements to key environment act

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Environmentalists have generally welcomed the first independent review, released in December, of the Australian Government's Environment Protection and Biodiversity Conservation (EPBC) Act, but some have expressed concern that the government may ignore some key recommendations.



Credit: Matt Colloff

The EPBC Act, the Australian Government's central piece of environmental legislation introduced in 2000, is required

to be reviewed every 10 years. A panel of experts headed by senior bureaucrat, Dr Allan Hawke, carried out the review.

Dr Hawke and his team received 340 written submissions from non-government organisations, industry bodies and interested individuals, as well as contributions from researchers and academics, companies and local, state, territory and Australian government agencies.

The review's 71 final recommendations included suggestions for the government to:

1. redraft the EPBC Act and rename it the Australian Environment Act;
2. establish an independent Environment Commission to advise the government on project approvals, strategic assessments and bioregional plans;
3. improve areas such as national environmental accounts and skills development;
4. set up an Environment Reparation Fund and national 'biobanking' scheme;
5. provide for environmental performance audits and inquiries;
6. improve transparency in decision-making and provide greater access to the courts for public interest litigation; and
7. identify 'ecosystems of national significance' and introduce an interim 'greenhouse trigger'.

The interim greenhouse trigger would apply to projects generating more than 500 000 tonnes of carbon dioxide-equivalent emissions in any 12-month period over the life of the project. Such developments would require approval under the EPBC Act. The trigger would be removed once a Carbon Pollution Reduction Scheme were enacted.

In releasing the review, Federal Environment Minister, Peter Garrett, pre-empted implementing a greenhouse trigger, arguing that 'the Government favours a market-based system to reduce our greenhouse emissions, and for that reason if the CPRS is passed [in the Parliament] there will be no need for a greenhouse trigger to be introduced, even as an interim measure.'

The Australian Conservation Foundation welcomed the release of the report and called on the Australian Government to 'implement these recommendations and provide the scale of investment needed.'

Graeme Hamilton, CEO of Birds Australia, also had praise for the review process. He said the most important recommendation was the need for a comprehensive set of national accounts as part of an improved monitoring system to measure and review the health of the Australian environment across a number of categories.

'The absence of monitoring programs is one of our greatest failings,' said Hamilton. 'How do we know if our energy and money has been well spent, or not well spent? There is a fundamental lack here that the Minister needs to address.'

Hamilton said the Minister also needed to be more accountable when state-federal bilateral agreements, such as Regional Forestry Agreements (RFAs) – which operate in Western Australia, Victoria, Tasmania and New South Wales – fail to do their job (see 'Can a parrot get justice under a Regional Forest Agreement?', *ECOS* 150, Aug–Sep 2009, p. 9). The Hawke Review recommended tighter scrutiny of RFAs and a stronger focus on the performance of RFAs 'in ...protecting biodiversity'.

Margaret Blakers from the Green Institute agreed that the EPBC Act has failed to protect vulnerable species, such as the swift parrot. She said the key focus of the EPBC Act needs to be environmental conservation, not economic or industry considerations, which result in the government minister having 'divided loyalties' when it comes to environmental management decision-making. Blakers supported the review's recommendations to revise the Act's objects.

Blakers also commented on the need for proper independent monitoring to provide a basis for assessing whether or not the legislation has performed its key functions of protecting biodiversity and conserving the environment. 'At present, with no monitoring measures in place, we don't know if we are better or worse off after a decade of the EPBC,' she said.

Minister Garrett said the Government will respond to all recommendations made by Dr Hawke around mid-2010.

