

Submission from the South-West Forests Defence Foundation Inc.

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Protection of the environment is the primary function of the *Environmental Protection Act*. Rigorous environmental protection must come first and take precedence in policies, assessments and decisions.

- Amend the Act so that the **criteria for determining significance** are contained in the body of the Act rather than within the separate administrative procedures.
- Amend the EPA's policies and guidelines to **limit the use of offsets** and make explicit the circumstances under which they can be used.
- Include a provision modelled on section 475 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* to allow a person, or a person acting on behalf of an unincorporated organisation, to **apply to the Supreme Court for an injunction** if a proponent engages or proposes to engage in conduct that constitutes an offence or other contravention of the Act or the regulations and conditions made under it.
- Recommend to government that WA establish a **specialised environmental court or tribunal**, or, alternatively, extend the powers and expertise of the State Administrative Tribunal (SAT) to deal with merits-based environmental decisions.
- Review the **funding arrangements** for the EPA to ensure that the **auditing and compliance** branch is able to carry out its functions effectively.
- **Avoid weasel words** like 'streamline,' 'flexibility,' 'balance.' These words imply a lack of scientific rigour and transparency in assessment of proposals.
- Do not use the expression 'approvals process'. This wrongly implies that all proposals will be approved. The term '**assessment process**', not 'approvals process', should be used throughout.
- Add a new subsection to section 4A of the Act that (a) obliges the EPA to **prepare and publish its policies** on environmental impact assessment and environmental protection in a manner consistent with the objects and principles of the Act, and (b) ensures that these published policies are mandatory considerations.
- Include in the objects of the Act a requirement that **greenhouse gas emissions and climate change be considered** throughout the administration of the Act.
- Amend Section 7 to **prevent politicisation of the Board** of the EPA. Include a set of eligibility criteria for the appointment of Board members as a schedule to the Act. These criteria should be developed following public and professional consultation.
- Add a new section 21A to impose a duty on the EPA for **regular State of Environment (SoE) reporting**, specify the required content of SoE reports and ensure the regular tabling of reports in Parliament accompanied by a Ministerial response.
- Amend Section 33 to **require public input** into the EPA's advice to the Minister on the revocation of any existing Environmental Protection Policy (EPP). Parliamentary approval should also be required to validate the Minister's decision as in the case for any new EPP.

- Amend section 38A to make it mandatory for the EPA to explicitly consider and **report on the possible cumulative impacts** of every proposal it receives.
- Amend section 44 to require that, wherever possible, the EPA impose **clear and objectively verifiable conditions** so that compliance can be assessed and monitored using measurable outcomes.
- Amend section 44(3) to make it clear that the **government may not request or direct the EPA** to alter the content of any of its reports.
- Amend section 46 to (a) allow the Minister to **revoke an environmental approval** if new evidence about the potential of significant environmental harm becomes available, and (b) require that any **amendment of significant implementation conditions be assessed by the EPA** at the same level of public consultation as occurred when the original proposal was assessed.
- Conduct a complete public review of section 48, together with an amendment of the regulations **requiring the EPA to seek public comment** on the content of its Environmental Reviews of planning proposals.
- Instead of proponents choosing the consultant who will conduct their EIS, require the EPA to maintain a list of Accredited Environmental Practitioners and **choose by lot the practitioner who will conduct the EIS** for each proposal. This will avoid the problem of the current situation where “who pays the piper, calls the tune.”
- **Increase the public comment period** for EPA decisions on whether or not a proposal requires environmental impact assessment and, if so, at what level from seven days to 14 days. Seven days is far too short for community members to become aware of environmentally significant proposals that could slip through the cracks without community input.
- Carefully consider **the need for conservation covenants** under the Act. There is already provision for conservation covenants in perpetuity with the National Trust of Australia (WA) and the Department of Biodiversity, Conservation and Attractions, and fixed term covenants under the *Soil and Land Conservation Act 1945*. The resources needed to establish and run such a program could perhaps be better directed elsewhere.
- **Tighten the exemptions for clearing permits and reverse the clearing principles** so that they read:
Native vegetation may be cleared only if —
 (a) it comprises a low level of biological diversity; or
 (b) it does not comprise the whole or a part of, and is not necessary for the maintenance of, a significant habitat for fauna indigenous to Western Australia; or
 (c) it does not include, and is not necessary for the continued existence of, rare flora; or
 (d) it does not comprise the whole or a part of, and is not necessary for the maintenance of, a threatened ecological community; or
 (e) it is not a remnant of native vegetation in an area that has been extensively cleared; or
 (f) it is not growing in, and is not in association with, an environment associated with a watercourse or wetland; or
 (g) the clearing of the vegetation is not likely to cause appreciable land degradation; or
 (h) the clearing of the vegetation is not likely to have an impact on the environmental values of any adjacent or nearby conservation area; or
 (i) the clearing of the vegetation is not likely to cause deterioration in the quality of surface or underground water; or
 (j) the clearing of the vegetation is not likely to cause, or exacerbate, the incidence or intensity of flooding.