NATURE RESERVES PRESERVATION GROUP

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To: EPActamendmens@dwer.wa.gov.au 28 January 2020

This submission is made on behalf of the NRPG, a long-established conservation umbrella group based in the City of Kalamunda. We wish to endorse the need for bringing the Environmental Protection Act into the 21st century. Given its past weaknesses, resulting in adverse effects on the State's biodiversity values and, the changing community priorities (including an increased recognition of the relevance of climate change causes and implications), an amended Act, addressing such weaknesses, is long overdue.

Whilst brief, this submission highlights those areas of major concern to our group. Where no comment is made, support for the amendment may be assumed. For ease of reading, extracts of interest in the discussion paper will be quoted in italics, followed by 'boxed' NRPG comments.

Foreword. *"…finding a balance between delivering on the full economic potential of our resources and the protection of human health and the environment is vital."*

In the eyes of many, this "balance" appears all too often skewed in favour of the proponents of resource developments. In *"finding a balance"* those charged with protecting the environment, must justify this perceived balance, demonstrating that **all** environmental implications of a decision have received full consideration.

"The amendments outlined in this discussion paper focus on environmental impact assessment, environmental regulation and clearing of native vegetation…"

This focus is justified. These are three areas in which shortcomings have been demonstrated. See later, more detailed comment.

1.2 Policy Drivers.

"The amendments in the Exposure draft Bill will support:
• ensuring that community expectations for a healthy environment are promoted and achieved;"

These expectations are changing rapidly and this should be recognised and specifically acknowledged in any amendments. There is increased public recognition of the interconnectedness of human wellbeing and a healthy environment. To keep pace with rising community concerns, the health of the environment must be ensured.

"• driving reform of processes and approaches to the regulation of the environment to promote more efficient practices;"

Any such *"reform"* in the search for *"more efficient practices"* should ensure protection of the environment. On too many occasions, such practices have been adopted to the detriment of the natural environment.

"• modernising the EP Act, improving the consistency and flexibility of legislative settings, and enabling the Department of Water and Environmental Regulation (DWER) to deliver more efficient services to business;"

Whilst there may be room for improvement, "environmental protection" should be central to any departmental thinking. Efficiencies delivered to businesses should be a secondary consideration.

"• improving regulatory processes under Parts IV and V, thereby supporting investment, employment and business creation in the State and good environmental outcomes;"

See above comment and, *"good environmental outcomes"* should be the prime objective of any improved processes.

"• assisting budget repair by providing for cost recovery of environmental impact assessment and services provided by the State Government on behalf of the Commonwealth Government through bilateral agreements."

See later comments on bilateral agreements

"• modernise and streamline processes for environmental impact assessment, clearing permits, works approvals and licences;"

There may well be a need to examine these processes, to see whether improvements may be made. However, past efforts to "*modernise*" and "*streamline*" have been unkind to the natural environment and, have mainly been prosecuted by those viewing such processes as nothing more than impediments to their development/clearing proposals.

"• improve regulatory effectiveness; update the EP Act to reflect and accommodate technological developments;"

Given the developments in technology which have emerged over the past decade, it is essential any such developments capable of improving effectiveness, be specified and their use permitted. Effectiveness should not be improved at the expense of the environment.

"• facilitate the implementation of bilateral assessment and approval agreements under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), and address errors and inconsistencies."

Past experience suggests the State may be prone to making assessment and approval decisions that do little to protect environmental values. Whilst, at a state level, they may well have benefitted industry and/or commercial developments, the environment has suffered. NRPG would prefer to see any amendments retain the Commonwealth's power to independently assess projects. This may well negate the perceived shortcomings or failings of both State and Commonwealth bodies.

1.3 Why the legislation needs to be reformed.

Reform is needed if only to examine the outcomes of previous reviews and, to ensure any imbalance of the review bodies is acknowledged. Once again, rapidly changing community concerns and values may not be reflected in such reviews. Any amendments should acknowledge and reflect these changes in community expectations.

2.1 New Areas of Environmental Reform.

Bilateral agreements with the Commonwealth.

Despite the bilateral agreements, neither the EP Act nor the EPBC Act have been able to halt the rapidly-increasing loss of biodiversity values in the State. Any amendments should be directed at plugging potential gaps in legislation, currently permitting this loss to continue. See also comments above.

"Environmental Protection Covenants."

Such covenants, if they are to have any relevance, should be in perpetuity, immune from amendment and enforceable. The phrase *"more flexible than those under other legislation"* should not presage a watering down of the value of a covenant. To be effective, a covenant must have real meaning, be permanent and, effectively protect that environment.

"Environmental monitoring programs."

Monitoring should be carried out by an adequately-funded and staffed State Government department, should be comprehensive in its scope and, carried out independently.

"Provide a head power for certified environmental practitioners."

This will benefit the environment, environmental consultants and conservation-minded citizens. Whilst the majority of consulting work is carried out to a high standard, the lack of such a *"head power"* cannot ensure all environmental practitioners are of a similarly high standard. Providing for independent auditing or peer review of such documents would be reassuring and effective in maintaining a high standard.

2.4 Part II – Environmental Protection Authority.

"EPA Chairman to be either full-time or part-time."

We consider that, given the importance of the role, it should be filled only on a full-time basis. Permitting it to be a part-time position is demeaning to the role. There should be a clear indication, through the selection of board members on merit alone, that the EPA will maintain its independence and, will reduce the likelihood of political interference in its function. Consideration should also be given to updating *"Chairman"* to *"Chair"* or *"Chairperson"*

2.5 Part III Environmental Protection Policies.

"Key Environmental Protection Policies (EPPs)."

Any review of this section should be expedited. In light of the perceived "mixed effectiveness" of such policies and of the calls for changes to the section, consideration should be given to expanding the range of EPPs to include the following:

All Regional Parks, existing and proposed.

Banksia Woodlands of the Swan Coastal Plain TEC.

Tuart forests of the Swan Coastal Plain (critically endangered).

Reintroduction of the former Wetlands EPP.

Revocation of any existing EPP should trigger public comment on the EPA's advice to the Minister and, parliamentary approval of the Minister's decision should also be required.

2.6 Part IV - Environmental Impact Assessment.

"The Bill has a number of provisions to streamline and improve regulatory efficiency…"

See earlier cautionary comments on the use of such terminology.

"Strategic assessments."

The current "proposal by proposal" approach has been a disaster for the environment. Too many approvals have been granted without 'big picture' consideration being given to the cumulative effect of any specific proposal. See also, comments below on **3.5 Assessment.**

2.7 Part V – Environmental Regulation.

"Clearing of native vegetation."

The existing provisions have led to an abject failure to regulate clearing. Drastic revision of these provisions is urgently needed. Clearing principles in **Schedule 5** need strengthening if they are to have any relevance. Specific changes would ensure that, under the Act, clearing would no longer be permitted on the Swan Coastal Plain, the Wheatbelt or in the 'south west global biodiversity hotspot'.

3.5 Assessment.

We support all these dot points. As noted above, we stress the need for the cumulative effects of any individual action to be fully assessed (Section 38A of the Act). We also fully endorse the amending of Section 44(3), given the independent nature assigned to the EPA. Also noted above, our support for a peer review process of environmental review documents to ensure their quality.

2.6 Decision–making.

All the dot points listed are seen by us as very important if the amended Act is to be an improvement. It may be advisable to state **who** may request "written reasons" from decision-makers. To ensure the process is seen to be open, the level of public consultation required following amendment of implementation conditions, will be essential.

3.7 Offsets.

The proposed amendment is long overdue. The flawed principle on which the policy and the guidelines are based, is seen by many as no more than a 'better-than-nothing' band-aid remedy, with a "feel-good" factor for proponents. All too often, the first steps of the guidelines are abandoned in a rush to employ the offsets. Both State and Federal bodies suffer the same debilitating malaise. Any proposed amendments deserve lengthy debate and significant public input.

3.8 Clearing of native vegetation.

See earlier comments on **2.7 Part V**.

3.10 Compliance and enforcement.

If compliance and enforcement are to be effective, funding must be assured for the resources required. Failure to allocate sufficient funds for long-term compliance monitoring may leave the State vulnerable to expensive clean-up activities.

3.11 Appeals.

The existing process is flawed and ineffective, leaving the community to view it as a waste of time. This needs to be rectified. The creation of a Court or Tribunal would provide an avenue through which to launch appeals.

Conclusion.

It is encouraging to see past neglect of and failure to act on the advice from many past reviews, now coming under consideration in the proposed amendments. The fact that this initiative is taking place, gives hope that past concerns expressed by environmental groups and concerned citizens are about to be addressed. It is important that, at the heart of any amendment, is the continued, improved, effective protection of the environment. We welcome this opportunity to make comment on the draft proposals and look forward to the outcome of the review.

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President.