

Shire of Serpentine Jarrahdale

Submission on “Modernising the Environmental Protection Act”

Page no. / Section of Discussion Paper	Comments
p.3 – Policy drivers	Sufficient resources must be allocated to delivering the modernised EP Act
p.6 – Bilateral agreements	Bilateral agreements must ensure that environmental standards are maintained, particularly as the “second level” of assessment will be removed
p.7 – Environmental Protection Covenants	Supported
p.8 – Environmental monitoring programs	What are the key state EMPs? Only 2 examples are given. Re cumulative impacts – is there a minimum number required to trigger the assessment of cumulative effects? Are cumulative effects going to be area based?
p.8 – Certified environmental practitioners	Certification of environmental practitioners is supported in principle, but fails to be adequately explained. What criteria are required to become certified? What process will be followed for certification? What minimum standard will be accepted?
p.9 – Injunctions	Expansion of power to apply for injunctions is supported
p.9 – Part I – Preliminary	The purpose and object of the Act may not be met if the triple bottom line is considered rather than purely environmental impacts. What are the first 4 principles mentioned in the object?
p.10 – EPA	The composition of the EPA members should primarily emphasise environmental expertise
p.10 – EPA Chairman	This position is demanding and should remain full time
p.11 – Referral of proposals	How will the whole assessment of complete impacts be collated? How will the EPA ensure that it is avoiding duplication rather than providing loopholes?
p.11 – Assessment of proposals (and elsewhere)	In a number of places it appears that too much power is given to the Minister, leading to the risk of decisions being made on political grounds rather than following the advice of the EPA
p.12 – Strategic assessments	The concept of strategic assessments is supported in principle, as long as subsequent applications are still considered individually as well. Cumulative impacts should be considered throughout the Act. Would the EPA consider concentrating industry in one area or scatter it? Which is the best approach for development and assessment?
p.13 – Implementation decisions	It is considered unwise to allow environmental matters to be overridden by other considerations on the basis of a decision by the Minister alone. It is concerning that the Minister is able to give decisions that differ from the EPA’s recommendations. The Minister therefore has

	the ability to make decisions that are politically motivated and not in the best interest of the natural environment.
p.13 – Conditions	Changing conditions after an implementation statement has been issued is not supported. The Minister should not be able to make changes at the request of the proponent if the Minister considers the changes not to have a significant detrimental effect. How will “significantly detrimental” be defined? Again leaves it open to political motivation. There need to be guidelines or definitions to outline what is or is not significantly detrimental?
p.15 – Changed proposals (and elsewhere)	Who decides (and how) what is significant? Will this be defined in the Act? There need to be checks and balances or guidelines to ensure that changes are not politically motivated, and “significantly detrimental” needs to be defined.
p.17 – Clearing	Cost recovery should not be imposed on Local Governments, as the relevant activities are for public benefit and cost recovery is cost shifting
p.17 – Clearing	Clearing regulations should be amended only within a comprehensive review of vegetation management
p.18 – Referral process	What fees will apply when it is determined that a clearing permit is not required? What criteria will be used to determine whether a permit is required? Is it the current clearing principles or different criteria? Will the new system only focus on “significant clearing”? What is defined as being “significant”? Many small amounts of clearing has a cumulative effect that needs to be taken into consideration.
p.21 – Defences – Clearing	Will the concept of “imminent danger” be defined in the Act? Otherwise this defence is open to abuse. Should “health” be included, or just “safety” or “danger”? There are many different (and potentially minor) health issues that could be used as a defence. Burden of proof should lie on remover, to provide onus and evidence on request as retrospective application.
p.27 – 3.1 New ideas – point 2	Supported as third party participation is necessary for good process
p. 27 – 3.3 Role of the EPA – point 2	Supported as board members should have environmental expertise
p. 27 – 3.3 Role of the EPA – point 3	Agreed but heritage considerations are often relevant to environmental matters and the ability to consider heritage should remain
p. 28 – 3.4 Environmental Protection Policies	What does “broader adoption” of EPPs mean? EPPs need to be made tighter to facilitate better protection of the environment. Does this mean that EPPs will be used more widely? Be more specific.
p.28 – 3.5 Assessment – point 6	How would “peers” be selected? Needs a transparent process or guidelines and level of expertise considered.

	This process could be useful but could also be dealt with by certified experts as per p.8.
p.28 – 3.5 Assessment – point 7	Who would have the broader powers? And when do assessments become strategic? Cumulative impacts must be considered and regionally important environmental values must be protected, but local impacts and values must also be considered.
p. 29 – 3.6 Decision-making – point 4	What are the statutory criteria that need to be included?
p. 29 – 3.6 Decision-making – point 10	If Ministerial statements are to be rolled into one, then wording must be robust and with clear actions and expectations, with potential for clear enforcement when necessary.
p.29 – 3.6 Decision-making – points 11 & 12	What does it mean to clarify derived proposals? What does it mean to clarify revised proposal provisions?
p.29 – 3.7 Offsets	Minimisation of the use of offsets is supported, as (particularly in the case of clearing) the use of offsets results in net loss of environmental values (vegetation). Many offsets are a poor environmental outcome, unless large tracts of vegetation are protected in perpetuity.
p.30 – 3.8 Clearing of native vegetation	The clearing regulations need to be returned to pre-Barnett figures and definitions, or better. There should be areas within some regions that are designated for no clearing for greater protection of the environment.
New point	Can the Act address retrospective applications / approvals? Or will it just be a compliance matter with remediation conditions?