

# Submission by Nillumbik Shire Council on the EPBC Act Review Discussion Paper – Draft for Future Nillumbik Committee meeting 10 March 2020

Nillumbik Shire Council welcomes the opportunity to provide a submission to the review of the Commonwealth Environment Protection and Biodiversity Conservation Act (EPBC Act).

## 1. Introduction

Council believes that protecting Australia’s threatened species and communities is important; and many residents live in Nillumbik because of the natural environment and indigenous species that surround them.

Nillumbik Shire’s natural environment is highly diverse. It supports a vast array of species and their habitats, spanning the tall Manna Gum forests along the Yarra River, grasslands on the Plenty River, alluvial plains and terraces, and incised creek lines and dry valleys nestled amongst skeletal sedimentary hills up to the Kinglake Plateau on the Great Dividing Range.

This unique area hosts over 1,000 indigenous flora species and 342 indigenous fauna species, including 127 species listed as significant at the State level, and the following nationally significant EPBC Act listed species (Victorian Biodiversity Atlas 2019, Protected Matters Search Tool 2019):

- 15 threatened fauna species of national significance

Regent Honeyeater (Endangered)	Grey-headed Flying-fox (Vulnerable)
Painted Honeyeater (Vulnerable)	Macquarie Perch (Endangered)
Regent Parrot (Vulnerable)	Australian Grayling (Vulnerable)
Swift Parrot (Endangered)	Murray Cod (Vulnerable)
Plains-wanderer (Vulnerable)	Dwarf Galaxis (Vulnerable)
Australasian Bittern (Endangered)	Growling Grass Frog (Vulnerable)
Spot-tailed Quoll (Endangered)	Eltham Copper Butterfly (Endangered)
Greater Glider (Vulnerable)	

- 7 threatened flora species of national significance

Round-leaf Pomaderris (Critical)	Matted Flax-lily (Endangered)
Charming Spider-orchid (Endangered)	Clover Glycine (Vulnerable)
Little Pink Spider-orchid (Endangered)	River Swamp Wallaby-grass (Vulnerable)
Crimson Spider-orchid (Vulnerable)	

- 8 EPBC Act listed migratory fauna species (those animals that migrate to Australia and its external territories, or pass through or over Australian waters during their annual migrations)

Latham’s Snipe	White-throated Needletail
Fork-tailed Swift	Satin Flycatcher
Rufous Fantail	Red-necked Stint
Sharp-tailed Sandpiper	Wood Sandpiper

- 41 EPBC Act listed marine species (species reliant on coastal and marine areas)

Australian magpie lark	Rainbow bee-eater
Australian pelican	Red-necked Stint
Australian white ibis	Rufous fantail

Baillon's crane	Sacred kingfisher
Black-faced cuckoo-shrike	Satin flycatcher
Blue-winged parrot	Satin flycatcher
Brown goshawk	Sharp-tailed Sandpiper
Buff banded rail	Shining bronze-cuckoo
Cattle Egret	Silver gull
Clamorous reed-warbler	Silvereye
Fan-tailed cuckoo	Southern boobook
Flame robin	Spotless crane
Fork-tailed swift	Straw-necked ibis
Horsfield's cuckoo	Swamp harrier
Latham's Snipe	Swift Parrot
Little egret	Tree martin
Little Raven	White-bellied sea-eagle
Musk duck	White-throated needletail
Nankeen kestrel	White-throated nightjar
Nankeen night heron	Wood Sandpiper
Painted snipe	

These species, and biodiversity as a whole within the Shire, are being impacted locally by EPBC Act listed threatening processes such as:

- Competition and land degradation by rabbits
- Land clearance
- Dieback caused by the root-rot fungus (*Phytophthora cinnamomi*)
- Novel biota and their impact on biodiversity
- Loss and degradation of native plant and animal habitat by invasion of escaped garden plants, including aquatic plants
- Loss of climatic habitat caused by anthropogenic emissions of greenhouse gases
- Predation by European red fox
- Predation by feral cats
- Aggressive exclusion of birds from potential woodland and forest habitat by over-abundant noisy miners (*Manorina melanocephala*).

Our local biodiversity is also being impacted by deer, a threatening processes that is not currently listed within the EPBC Act.

Feral deer are now causing significant environmental damage in Nillumbik as well as damage to agricultural assets. They also represent a public risk in terms of being a road traffic hazard. Nillumbik Council has made submissions to Victorian and Commonwealth inquiries to raise awareness about the seriousness of the issue and to encourage more urgent action including removing barriers to controlling deer, improved research into control methods and landscape scale control programs.

Nillumbik Council recommends recognition of the loss and degradation of native plants and animal habitat by deer as a threatening process in the EPBC Act.

The objects of the Act relevant to Nillumbik Shire Council are to:

- provide for the protection of the environment, especially those aspects of the environment that are matters of national environmental significance;
- promote ecologically sustainable development through the conservation and ecologically sustainable use of natural resources;
- promote the conservation of biodiversity;
- provide for the protection and conservation of heritage;
- promote a co-operative approach to the protection and management of the environment involving governments, the community, land-holders and indigenous peoples;
- assist in the co-operative implementation of Australia's international environmental responsibilities;
- recognise the role of indigenous people in the conservation and ecologically sustainable use of Australia's biodiversity; and
- promote the use of indigenous peoples' knowledge of biodiversity with the involvement of, and in co-operation with, the owners of the knowledge.

(Department of Environment and Energy, 2013, *About the EPBC Act*, <https://www.environment.gov.au/epbc/about>)

The work Nillumbik Shire Council does to meet these objectives includes the following:

- We reserve land for the purpose of biodiversity conservation and we actively manage listed threatened species found on our land such as Eltham Copper Butterfly, Charming Spider Orchid, Clover Glycine, Matted Flax-lily and Rosella (Little Pink) Spider Orchid.
- We educate, incentivise and engage with the local community including private landowners, Landcare groups and Friends groups to create a shared sense of care, connection to nature, understanding of our local threatened species and threatening processes, and understanding of sustainable land management.
- We support and encourage private landowners, Landcare groups and Friends groups and to protect and manage listed threatened species. This assists in meeting landowner obligations to protect listed threatened species under the Act.
- We actively work in partnership with private landowners and community groups including Landcare and Friends groups, other Councils, government organisations and the State and Commonwealth Governments to achieve successful landscape-scale biodiversity conservation.
- We work with Indigenous Australians both in on ground biodiversity conservation works and education and engagement.
- We work within the regulations of the Act in instances where a Matter of National Environmental Significance (NES) is or may be impacted by a project, activity or development.

## **2. Scope of Nillumbik submission**

Nillumbik Council's submission is informed by its experience with the EPBC Act, particularly in relation to biodiversity conservation and the impact of threatening processes. It is also informed by the challenges and costs experienced in implementing biodiversity stewardship and in dealing with threatening processes.

The EPBC Act Review discussion paper poses a number of questions as prompts for response. Where questions give rise to similar responses they have been grouped together rather than answered separately.

### **3. Overarching**

*Question: Have the past changes to the EPBC Act gone far enough or have they extended the regulatory reach of the Commonwealth?*

Council considers that the EPBC Act should continue to play a significant role in protecting and managing Australia's environment and heritage as it is recognised as essential legislation. As the discussion paper states, the Act operates within a broad context, alongside other Commonwealth laws and activities and those of state, territory and local governments. The activities of businesses, land managers and the community are also central to achieving environmental outcomes.

The success of the Act in achieving its stated objectives is reliant on other Commonwealth and state laws and policies. It provides a central structure for the protection and management of biodiversity and the conservation of that biodiversity for all of Australia. This protection and conservation should not be restricted by land tenure, land use or government boundaries. In order for the Act to continue to be effective it is suggested that it:

- a. Be the central law for Australia's environment and heritage;
- b. Have clear, achievable objectives preventing the decline of biodiversity;
- c. Continue to regulate and encourage sustainable land management and ecologically sustainable development, whilst ensuring the conservation of biodiversity;
- d. Prevent the extinction of species and ecological communities; and
- e. Preserve the natural environment.

### **4. Principle of Ecologically Sustainable Development (ESD)**

*Question: How could the principle of ESD be better reflected in the EPBC Act?*

The Act aims to promote ecologically sustainable development through the conservation and sustainable use of natural resources.

Implementation of Ecologically Sustainable Development would be improved with better alignment of Commonwealth, State and local government policy.

At the local government level, Council is committed to enhancing human health and wellbeing for current residents as well as preserving and enhancing our ecosystems for the benefit of future generations (of both wildlife and people). Tied in with this, Council is also committed to climate action.

Environmental protection and biodiversity conservation has a direct linkage to such considerations. Challenging decisions are regularly made by all levels of government as well as industry and businesses that need to consider all of these factors from environmental, social and economic perspectives.

As such we consider that there are potential benefits for the EPBC Act to reflect principles of ESD, including through alignment of policy and inclusion of environmental, social and economic analysis, and that this in turn would assist decision making.

## **5. Objects of the EPBC Act**

*Question: Should the objects of the EPBC Act be more specific?*

It is recommended that the objects of the Act be made more specific and direct in order to enhance the conservation and protection of our natural environment. For example:

From “to promote the conservation of biodiversity” to “to promote conservation of biodiversity and halt the overall decline of threatened species and communities to prevent any new extinctions”

Additional objects could also be added around:

- a. recognising the threat of climate change
- b. recognising the threat of bushfire to conservation of Australia’s environment and biodiversity
- c. landscape scale protection to mitigate biodiversity loss

## **6. Matters of National Environmental Significance (NES)**

*Question: Should the matters of national environmental significance within the EPBC Act be changed? How?*

The current nine nationally and internationally important matters of NES are valid and should remain as important triggers in the assessment process under the Act. Consideration could be given to expanding the list by the addition of two additional matters:

- a. protection of the environment from climate change impacts; and
- b. areas of significance to Indigenous Australians including environmentally sensitive areas which are important to Indigenous Australian’s laws, customs and custodianship.

## 7. Priorities for Reform

*Question: Which elements of the EPBC Act should be priorities for reform?*

Reform should focus on strengthening the protection of biodiversity, threatened species and communities rather than the assessment and approval process. For example:

- a. Given the rate of biodiversity decline recognised by the Commonwealth government's Australia State of the Environment 2016 report the reform can be enhanced by prioritising proactive biodiversity conservation rather than relying on reactive assessment and approval processes. However, assessment and approval processes need to remain robust, include public scrutiny and input and be protected from short term, expedient decision making.
- b. The definition of what constitutes a 'significant impact' of an action could benefit from improvement as it is currently unclear (ambiguous and open for interpretation by the proponent) and in some instances may result in an issue or a project not being referred / considered under the Act, therefore potentially placing at risk the protection or conservation of threatened species, communities or other matters of National Environmental Significance (NES).
- c. Most projects that are assessed for the likelihood of 'significant impacts' are done in isolation of other projects that may impact on that matter of NES. Therefore the overall or cumulative impact to a matter of NES may be underestimated over time. The Act should consider these cumulative impacts, including past developments, which may lead to a continuation in the decline of matters of NES, particularly when applicable to threatened species or communities.
- d. Prioritisation of long term environmental and heritage protection would contribute to enhanced longer term conservation outcomes.
- e. 'Incentivising and encouraging compliance' is supported, and is an approach that Council applies locally across a broad range of land management and biodiversity situations that go beyond the scope of this Act. While it is important for the Act to address deliberate non-compliance, greater education of landowners on their responsibilities is recommended to minimise inadvertent actions and to encourage cooperative and positive management. Where landowner obligations are not being met, enforcement should be commensurate with the seriousness of the breach.
- f. The Act sets out who has the responsibility to make decisions and what they need to consider, however there would be greater clarity if these 'Decision making principles' were prescribed in greater detail. In particular:
  - i. The 'directing principles' which specify the matters that must be considered when making decisions and policies under the Act require clarification. For example, under what circumstances a matter is referred to the Minister, how the 'matters' which must be considered are determined, and the amount of detail provided in the direction. This would be beneficial locally, for example where infrastructure projects

are proposed by the State Government or other authorities or private bodies that may impact matters of NES.

- ii. A requirement for high level protection of the environment and the application of the best available techniques to avoid impacts to matters of NES could be incorporated into the decision making principles. For example, an impact on a listed threatened species might be unavoidable utilising standard techniques but avoidable or minimised if the proponent is required to consider and demonstrate the alternative impact if best available techniques were applied.
- iii. A requirement for the approval process to assess how the applicant has applied the three key mitigations steps of 'avoid, mitigate or offset' in that order could be incorporated into the decision making principles. Genuine effort would then be demonstrated by a proponent to avoid or mitigate impacts to a matter of NES as a matter of priority.
- iv. In instances where an offset is required, prior to granting approval for an action the decision making principles should require that a suitable offset be identified and secured prior to any impact occurring, and this should be audited.

## **8. High Level Concerns**

*Question: What high level concerns should the review focus on?*

During the life of the EPBC Act the health of the Australian environment and its biodiversity has continued to decline in many areas, as evidenced in the data provided in the Australia State of the Environment Report 2016 and previous State of the Environment reports.

As such, there are a number of high level concerns that the review could consider to help enhance the performance and outcomes of the EPBC Act, particularly as they apply to effectiveness, efficiency, certainty, inclusion, trust and transparency. These include:

- a. Greater focus on the provision of better guidance and clear environmental standards within the Act to enable it to be better understood and therefore more likely to work effectively.  
For example:
  - i. Clearly understood obligations and criteria that will assist all proponents understanding of what is perceived as complex and potentially (incorrectly) as irrelevant legislation
  - ii. Provision of clear, specific and direct objectives of the Act which are measureable
  - iii. Provision of clear, concise and consistent decision making criteria
  - iv. Reduction of ambiguity
  - v. Reduction of duplication with state and territory processes
- b. Consideration of whether all levels of government, including local government, and private enterprises / businesses fully understand and apply the Act, and provide for improved education or guidance as required.
- c. Consideration of how to enable more effective implementation of the Act, so that protection of biodiversity is not overridden by economic, political or other considerations.

- d. Consideration of whether conservation advice received from the Department of Environment or the Threatened Species Scientific Committee could be better considered and weighted within assessment processes.
- e. Examination of opportunities to increase the resources available to implement the Act.
  - i. For example, the cost of ensuring the protection of a significant species such as the Rosella Spider Orchid or Eltham Copper Butterfly can be prohibitive. Nillumbik Shire Council currently funds the protection of these species on its land and associated habitat improvement, threat minimisation and monitoring to the best extent possible within stretched resources, with no contribution from the Federal government to assist with this.
  - ii. For example, should ESD cost-benefit analysis become a requirement of the Act, resources would be required to upskill Local Government Officers and others accordingly.
- f. Consideration of how the transparency of the processes required by the Act might be enhanced, along with the associated accountability in decision making, and the ability of stakeholders and the public (including individuals or organisations) to challenge decisions.
- g. Consideration of the benefits of requiring the Common Assessment Method for categorising threatened species (which keeps up with current international standards for classifying the conservation status of species) to be utilised across Australia. Consolidation of the different threatened species lists into one list for Victoria is very important as it removes ambiguity and inefficiencies. Adopting the Common Assessment Method and including nationally threatened species allows consistency between the EPBC Act and Victoria's Flora and Fauna Guarantee Act. This allows for species such as River Swamp Wallaby-grass *Amphibromus fluitans*, which is nationally listed, but not state listed, to be recognised and conserved appropriately.

## 9. Future trends or supporting evidence to be used to inform the review

*Question: What additional future trends or supporting evidence should be drawn on to inform the review?*

It is important that the review forms recommendations that are fit for the future. To do this well, the review will need to draw on the best available information to forecast the likely future operating context for the Act. The following recommendations are made:

- a. The increasing impact of climate change is one of the key future factors that will drive species and habitat decline. Lack of water resources and shifts in rainfall will also impact on other aspects of the environment as well as the economy. It would be prudent to embed these future trends into the review of the Act.
- b. Cumulative impacts to biodiversity and matters of NES as a result of multiple activities should be considered. Individual direct impacts may be minor, but in combination may cause a significant impact meaning that assessments of interactions between projects is



vital. This is of concern within Nillumbik with multiple infrastructure projects being approved with little cumulative assessment consideration.

- c. The review highlights the need to look at changes within the population – especially in terms of an increasing population and an ageing population. However we suggest that the review should also take into account the concept of inter-generational equity. Young people may see biodiversity loss as a social justice issue as well as an environmental issue as it will directly impact on the quality of their lives.
- d. Australia faces many challenges as a result of an increasing population, climate change, diminishing water supplies, fire, soil degradation, agricultural labour shortages, declining productivity, reductions in available productive farmland and debatable best use of land. Consideration of the impact of these challenges to biodiversity in general is important and warranted.
- e. The trend towards the shared global consequences of environmental degradation and biodiversity loss could also be considered in the review. Global issues such as the impact of plastics, the recycling crisis, climate change and acidic oceans are not restricted to specific areas or legal jurisdictions and yet they have direct impact on biodiversity within Australia.

## **10. Regulating Outcomes vs Managing Prescriptive Processes**

*Question: Should the EPBC Act regulate environmental and heritage outcomes instead of managing prescriptive processes?*

This review provides the opportunity to consider the role of the EPBC Act and to modernise national environmental law to improve outcomes for industry and the environment.

It is recommended that the Act regulate environmental and heritage outcomes. This is increasingly important within the context of climate change, the use of fossil fuels and the impacts that these have on threatened species and biodiversity in general.

There is also a need for strong standards for measuring and endorsing prescriptive processes that meet the regulated environmental outcomes that are trying to be achieved.

How these prescriptive processes are implemented and the environmental outcomes being achieved could be required to be reviewed regularly and monitored by an independent third party – i.e. to ensure that regulatory frameworks are enabling Matters of NES to be adequately protected and considered in decision making.

This could be beneficially applied, for example, by having regulated environmental outcomes required with regard to the impact to Swift Parrot and the Matted Flax-lily in Nillumbik resulting from the current Yan Yean Road upgrades, the Yarra Valley Water Yan Yean Road sewer project, and North East Link project.

## **11. Environmental protection and restoration under the EPBC Act**

*Question: How can environmental protection and environmental restoration be best achieved together?*

Local Government has substantial knowledge and experience in managing biodiversity within their municipalities and in working in partnership with their communities and with neighbouring municipalities.

We have found that environmental restoration is a key component in conserving biodiversity. As such, including a greater focus on environmental restoration within the EPBC Act is recommended, with the proviso that environmental protection be prioritised before restoration.

- a. Environmental restoration is a key component of conserving biodiversity and is likely to become more pressing in the face of population growth, land clearing, invasive species threatening processes and climate change impacts. Environmental restoration (where possible) could provide robust outcomes across landscapes and for individual species in Nillumbik and elsewhere.
- b. A requirement by the Act for an early focus on restoration may also positively influence the planning of projects and attention to threatening processes.
- c. Any national standards for restoration should incorporate indigenous land management practices. For example, Nillumbik Shire Council and Christmas Hills Landcare have been working closely with the Wurundjeri Narrap team to re-introduce firestick burning in our landscape with the aim of combining traditional burning with restoration of the ecology of the habitat.
- d. Environmental restoration may also incorporate regenerative agriculture principles to improve soils, water cycling, increase biodiversity and resilience to change.
- e. Success of restoration could be overseen by an independent third party such as the Society for Ecological Restoration Australasia which incorporates many of Australia's leading scientists, ecological consultants and practitioners and has developed common principles of practice and National Standards for all restoration programs to adhere to.

## **12. Reducing regulatory complexity, simplifying interactions and 'low risk' applications**

*Question: Should the matters of national significance be refined to remove duplication of responsibilities between different levels of government?*

There is an opportunity to streamline the application and approval processes alongside other permit approval processes such as the *Planning and Environment Act* in Victoria to achieve enhanced environment and biodiversity outcomes. Local or state planning approval conditions would then be required to meet the requirements of the EPBC Act and be subject to national standards. Clear and concise rules and guidelines would need to be developed if key processes are streamlined between levels of government.

It is also recommended that the allocation of responsibilities within the Act should be outlined more clearly. The requirement for proponents to self-assess the significance of their development is

challenging and can lead to a downgrading of the true impact of the development to a matter of NES.

*Question: Should low-risk projects receive automatic approval or be exempt in some way?*

Although the concept of a reduction of regulatory burden is supported, without a clear insight into the definition of 'low risk' we are cautious in supporting an exemption for 'low risk' applications. It is very difficult to determine cumulative impacts to the environment if exemptions apply to low risk applications. If they are to receive automatic approval or are to be exempt in some way, these projects could receive this approval with an independent assessment by a third party, such as an independent regulator, or the projects can be peer reviewed. Self-assessment comes with the risk of the applicant downgrading the values of a site in order for a development to be approved.

### **13. Landscape scale vs species-specific protections**

*Question: Should the Commonwealth's regulatory role under the EPBC Act focus on habitat management at a landscape-scale rather than species-specific protections?*

Many of Australia's ecosystems are at risk from a broad range of threats, including invasive species, habitat loss and climate change. There are also future development pressures from urban growth and resource developments.

It is possible that these threats and development pressures could be more effectively addressed in Nillumbik and elsewhere through landscape-scale approaches rather than on a project or species basis.

For example, Nillumbik's Conservation Futures and Rivers to Ranges projects enable the project partners to undertake strategically focused work for EPBC Act listed significant species by addressing threatening processes at a local level which results in a coordinated benefit on a landscape scale. A landscape or area based planning approach to conservation is supported and beneficial, particularly when there is cross-tenure support from the community, private landowners, public authorities and government agencies to achieve these aims.

However, this might not always be in line with the science for managing a particular species, nor the priority for a recovery team, the community or groups working in this space - and this should be acknowledged.

It is important to recognise that some species will require a focused attention and landscape scale habitat management might not always be suitable.

For example:

- a. The endangered Eltham Copper Butterfly has a very restricted range, and in Nillumbik it occurs in a highly urbanised area. The conservation efforts that support this species might not necessarily support a wider range of other species or habitats that are at risk of becoming threatened across a large landscape. This does not mean that the conservation of the Eltham Copper Butterfly is less important, particularly if it is iconic and helps to engage a

community to protect the butterfly along with its last remaining habitat and the other indigenous species it exists with.

- b. If resource constraints are a main driver for prioritising actions at a landscape scale this may result in the loss of endemic or highly localised species, for example threatened orchid species. Landscape scale resource constraints may also result in the priorities and outcomes not always aligning with actual conservation requirements and/or effective results that halt extinction. There is a need for investment in different types of actions which are tailored to groups of species/communities as well as individual species requirements.

Therefore, it is vital that small scale conservation actions that benefit endemic species and habitats are incorporated into landscape-scale biodiversity planning in order to ensure that these species/communities do not decline in the future.

#### **14. Community involvement in decision making**

*Question: How should community involvement in decision-making under the EPBC act be improved?*

Biodiversity loss cannot always be adequately addressed by government regulation, and it requires an engaged and empowered community invested in acting for the environment.

Australia's environment is a valuable asset. Greater inclusion of Australians in the processes that protect, manage and promote it may help foster the best environmental outcomes. As such, community involvement in decision making is valuable.

The following opportunities could be considered within the review process:

- a. Increased community representation within the decision making bodies of the EPBC Act.
- b. The establishment of an independent scientific regulator or third-party commission to oversee the implementation of the EPBC Act and to ensure an independent decision making processes.
- c. Prioritisation of advice received from scientific experts for consideration within the decision making process.
- d. Consideration of whether relevant environmental bodies and NGO's are sufficiently resourced to adequately represent the community in protecting biodiversity.

#### **15. Environmental offsetting under the EPBC Act**

*Question: What do you see are the key opportunities to improve the current system of environmental offsetting under the EPBC Act?*

Environmental offsetting should only be used as a last resort with genuine effort made by a proponent to avoid or mitigate impacts to a matter of NES as a matter of priority. If residual impacts cannot be avoided or mitigated, approval should only be given once a suitable offset has been identified and secured prior to an impact occurring.

Trading the protection of a species or ecological community for its removal elsewhere will not halt the decline of that species or community, but if it is done with rigor and costed correctly it will hopefully slow that decline and avoid total loss. Offsets need to be calculated and accounted for correctly. Adequate comparison of losses and gains is prudent in ensuring that the loss of biodiversity is compensated for in offsets, and gains should be higher than losses.

Ensuring that the national Offset Policy is embedded in law can give the offset market certainty and credibility.

## 16. Principles to Guide Future Reform

*Question: Do you have suggested improvements to principles or suggestions of principles that will help to guide future reform?*

Principles to help guide future reform could include:

**Adhering to the Precautionary Principle** – This needs to remain central to the EPBC Act to ensure that decisions incorporate the impact of projects both now and into future, particularly where the science is incomplete or there is a lack of consensus.

Nillumbik Council has considered the precautionary principle as it is expressed in the EPBC Act and formulated the following statement on sustainability and the precautionary principle:

‘Solutions to problems need to be tailored to meet Nillumbik’s unique social, economic and environmental needs now and into the future. We need to anticipate and avoid any actions that may cause serious or irreversible harm to the environment and the people who live within it.’

Nillumbik Shire Council (2019) *Green Wedge Management Plan*

The precautionary principle in the Act could be more clearly defined, to avoid conflicting interpretations on how it should be applied and easier to apply in practice. Implementation guidelines are essential to ensure that any precautionary decision making is consistent and provides for good biodiversity outcomes.

**Including all aspects of ESD** – The Act would be improved if ESD considerations were firmly embedded, and in such a way that ensures that the Act can operate in a proactive rather than reactive manner, and remain inter and intra-generational. Greater emphasis on social and environmental considerations could be required in decision making to ensure that economic considerations are not the dominate driver. The Act could then better protect ecological processes and biological diversity as well as specific threatened species, acknowledging that many of these processes are under stress due to human pressure such as urbanisation, land clearing and climate change. The social dimensions of biodiversity, such as its recreational, health and cultural values, could also be considered within the reform of the Act as the loss of these will become more pressing under climate change scenarios.

**The scope of listed threatening processes** – This list could be reviewed to identify whether there are any current or likely threatening processes that may need to be added to the list. It is suggested that

'the loss and degradation of native plants and animal habitat by deer' might need to be added to the list.

**Upholding independent review and community participation** – This is required to maintain the effectiveness of the Act and ensures robust compliance. An independent regulator and community involvement enables the science as well as the views of the public to contribute to decision making.

**Transparency** – The Act would be enhanced by greater embedding of transparency and accountability in decision making processes within the Act, along with embedding a process for the public, including individuals or organisations, to challenge any decisions made. Public knowledge of all factors around controversial decisions is important to the integrity of the Act and to maximising the dispersal of public power in decision making.

## **17. Conclusion**

We trust that our submission assists in your review of the EPBC Act.

Please contact Julia Franco, Nillumbik Shire Council Biodiversity Officer  
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