

17th April, 2020

To EPBC Act Review Secretariat
Department of Environment and Energy
GPO Box 787
Canberra ACT 2601
epbcreview@environment.gov.au

Dear EPBC Act Review Secretariat

Friends of Ku-ring-gai Environment (FOKE) appreciates the opportunity to make a submission on the review of the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

FOKE is a community group with membership drawn from across Ku-ring-gai Local Government Area (located approximately 14 kilometres north of the Sydney CBD, NSW) that has championed Ku-ring-gai's natural, built and cultural heritage, for 25 years.

FOKE welcomes the EPBC Act review as an opportunity to highlight the Ku-ring-gai local government area as a place of national environmental significance.

The Ku-ring-gai Local Government Area is an environmentally sensitive areas that covers 85 km². It includes approximately 1,150 ha of natural bushland reserves, many of them contiguous with surrounding National Parks, that include Ku-ring-gai Chase, Garigal, Lane Cove and Dalrymple-Hay Nature Reserve.

FOKE calls on the Secretariat to urgently expand and strengthen the Commonwealth's environmental powers to protect Australia's biodiversity, and in particular to protect Ku-ring-gai's unique biodiversity of national significance. **Currently the single main pressure on Ku-ring-gai's biodiversity is land clearing/deforestation as a result of local and State government legislation that has rezoned environmentally sensitive lands for high density housing. Urgent Federal intervention is needed to halt this destruction.**

The EPBC Act has comprehensively failed to protect Ku-ring-gai's Critically Endangered Ecological Communities - Blue Gum High Forest, Sydney Turpentine Ironbark Forest (STIFF) and Duffys Forest. The EPBC Act's Recovery Plans have not delivered the outcomes necessary to stop their decline towards extinction.

FOKE urges the EPBC Act Review Secretariat strengthen the EPBC Act so that the necessary powers can be used by the Federal government to override the NSW Government and Ku-ring-gai Council rezoning proposals that are accelerating biodiversity extinction and climate

change. The EPBC Act must prioritise environmental considerations over economic and social considerations.

FOKE wishes to endorse the Environmental Defenders Office report 'Next Generation Biodiversity Laws: Best practice elements for a new Environment Act'.¹

Yours sincerely

Kathy Cowley
President

cc The Hon Paul Fletcher, Member for Bradfield
cc The Hon Jonathan O'Dea MP, Member for Davidson
cc Alister Henskens SC MP, Member for Ku-ring-gai

¹ https://www.edonsw.org.au/next_gen_biodiversity_laws

Ku-ring-gai's natural environment needs to be recognised for its National environmental significance

Question 1:

Some have argued that past changes to the Environment Protection and Biodiversity Conservation Act (EPBC Act) to add new matters of national environmental significance did not go far enough. Others have argued it has extended the regulatory reach of the Commonwealth too far. What do you think?

Question 4:

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

The *Environment Protection and Biodiversity Conservation Act* (EPBC Act) has not gone far enough in new matters – particularly the recognition of Ku-ring-gai as a place of national environmental significance.

When the EPBC Act was first legislated in 1999, Friends of Ku-ring-gai Environment (FOKE) was hopeful that the Federal Government would play a greater role in protecting Ku-ring-gai's environment. This has not happened. It is now urgent that the EPBC Act empower the Federal Government's environmental powers to protect Ku-ring-gai as a bioregion of national environmental significance. Since the implementation of the EPBC Act in 1999, Ku-ring-gai's environment has been severely degraded by successive NSW Government and Ku-ring-gai Council legislation that prioritises economic, population and high density housing growth before environmental protection and sustainability.

The NSW Government sponsored housing densification has significantly cleared/deforested much of Ku-ring-gai's forest canopy and reduced its capacity to regenerate. With increasing climate change storms, Ku-ring-gai's remnant forests' resilience have further been compromised.

A 2000 *Environmental Baseline Study of Ku-ring-gai* has never been given the consideration in the EPBC Act it deserved.²

Ku-ring-gai has ecosystems of National Importance – Blue Gum High Forest, Sydney Turpentine Ironbark Forest (STIF) and Duffy Forest. It includes national parks that are part of the National Reserve System – Garigal, Lane Cove and Ku-ring-gai National Parks.

Importantly Ku-ring-gai's 122 bushland reserves are important wildlife corridors and catchments to these reserves. Currently these biodiversity corridors have been broken by roads, higher rise housing developments and severely damaging many of Ku-ring-gai's threatened and vulnerable species and ecological communities. This is why a stronger EPBC Act is so urgent.

²

file:///C:/Users/Janine/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/Ku-ring-gai_Residential_Development_Strategy_-_Environmental_Baseline_Study_-_March_2000%20(2).pdf

FOKE remains disappointed that the EPBC Act, in its current form, has failed to protect Ku-ring-gai's exceptional biodiversity and outstanding natural heritage values. The EPBC Act has not been strong enough to ensure protecting Ku-ring-gai as an environmentally sensitive bioregion. Most concerning the EPBC Act has not been rigorous in protecting Ku-ring-gai's Blue Gum High Forest, Sydney Turpentine Ironbark Forest (STIF) and Duffy Forest; the wildlife corridors surrounding Garigal, Lane Cove and Ku-ring-gai National Parks; and Ku-ring-gai's many threatened and vulnerable species and ecological communities.

Ku-ring-gai's rare remnant Blue Gum High towering forests are located on the Wianamatta Shale found on its north-south ridges. These are also the main transport routes (Pacific Highway and the North Shore Rail Line) that continue to be targeted for high density housing, resulting in their dramatic loss. Ku-ring-gai's east-west ridges, from the Lane Cove River, along the Mona Vale Road to the coastal environments of the Northern Beaches, have also been targeted for high density housing. Less than 1% of remnant Blue Gum High Forest remain. Urgent Federal intervention, with new controls from EPBC Act, need to halt this loss of critically endangered Forest communities.

FOKE recommends new stronger triggers for Commonwealth environmental intervention are required to be legislated in the EPBC Act.

Land clearing being a key threatening process under the EPBC Act that has been caused by Ku-ring-gai Council and the NSW governments' rezoning legislation, regulations and policies. Despite the significant land clearing of environmentally sensitive lands in Ku-ring-gai, the Federal Government has not intervened to prohibit, what FOKE has described as the "rape of Ku-ring-gai".

A comprehensive federal land-clearing trigger is urgently needed to ensure that the Commonwealth can intervene to protect and preserve Ku-ring-gai's biodiversity, reduce greenhouse gas emissions and achieve landscape scale conservation. The Federal Government needs to have the power to ensure that Ku-ring-gai's High Conservation Value Vegetation is made off-limits to further development.

The EPBC Act needs to establish cumulative impact assessments, taking account of past, present and likely (approved) future activities at the relevant scale. This has been a frustration for FOKE for many years, as each new Local Environment Plan (LEP) begins as a 'clean plate' without any reference to the previous damage caused by previous LEPs.

The EPBC Act, in its current form, has failed to protect its Endangered species as Hai (*Haloragodendron lucasi*), Bauer's Midge Orchid (*Genoplesium bauera*), Southern Brown Bandicoot (*Isodon obesulus*), Spotted tailed Quoll (*Dasyurus maculatus*).

FOKE also has concerns that the EPBC Act has not been strong enough to protect the Vulnerable species of Downy Wattle (*Acacia pubescens*), Darwinia biflora (*Darwinia Biflora*), Camfield's Stringybark (*Eucalyptus camfieldii*), Deane's Paperbark (*Malaleuca deanei*), Grey-headed Flying-fox (*Pteropus poliocephalus*), Large Pied Bat (*Chalinolobus dwyeri*).

Human-induced climate change is a key threatening process to biodiversity and has intensified since the EPBC Act was first enacted in 1999. Australia needs to urgently take action on climate change to meet its commitments to the Paris Agreement with an economy-wide legal framework and carbon budget that is consistent with limiting global temperature warming to 1.5 degrees.

The Act needs to assess greenhouse gas emissions as a result of housing densification and reject them if they have unacceptable climate impacts.

The need to prioritise the principle of ESD

Question 2:

How could the principle of ESD be better reflected in the EPBC Act? For example, could the consideration of environmental, social and economic factors, which are core components of ESD, be achieved through greater inclusion of cost benefit analysis in decision-making?

FOKE has been arguing for some time that the EPBC Act needs to be based on Ecologically Sustainable Development (ESD). Please refer to recommended ESD indicators in Appendix 1.

The need for stronger objects in the EPBC Act to protect Ku-ring-gai

Question 3: Should the objects of the EPBC Act be more specific?

FOKE supports the strengthening of the EPBC Act by strengthening its objects.

The primary object of the EPBC Act must be to ensure the protection of Australia's biodiversity and ecological integrity. Social, economic and equitable issues should only be secondary considerations consistent with the principles of ESD.

A new Act might include the **overarching primary object** as:

The primary aim of this Act is to conserve and protect Australia's environment, its natural heritage and biological diversity including genes, species and ecosystems, its land and waters, and the life-supporting functions they provide.

The EPBC Act should also include other **secondary objects** such as national leadership to protect Australia's biodiversity conservation and ecologically sustainable development.

FOKE feels that the EPBC Act needs to restore confidence that the Australian Government is genuinely committed to fulfilling its obligation to protect the environment and ensure fair and efficient decision-making – not one that has vested interests from the property industry or the construction industry. As well the EPBC Act needs to improve public transparency, understanding and oversight of such decisions and their outcomes and accountability.

FOKE continues to be dismayed by ongoing tokenistic community 'consultation' that is just lip service to ignoring community wishes. Currently Ku-ring-gai Council is pushing ahead with environmentally damaging new housing strategy during the Coronavirus lockdown.

Importantly the EPBC Act needs to fulfil Australia's international environmental obligations and responsibilities. FOKE is a member of the *Give A Dam* Campaign and calls on the EPBC Act to oppose the raising of the Warragamba Dam wall that threatens the Greater Blue Mountains World Heritage Area.

Numerous migratory birds that are listed on International Migratory Bird Agreements have been recorded within Ku-ring-gai Council Local Government Area, including the including the Commonwealth Critically Endangered Curlew Sandpiper (*Calidris ferruginea*).

Urgent need to improve EPBC Act for protection of Ku-ring-gai's biodiversity

Question 6:

What high level concerns should the review focus on? For example, should there be greater focus on better guidance on the EPBC Act, including clear environmental standards? How effective has the EPBC Act been in achieving its statutory objectives to protect the environment and promote ecologically sustainable development and biodiversity conservation? What have been the economic costs associated with the operation and administration of the EPBC Act?

FOKE is deeply concerned about the failings of the EPBC Act to protect Ku-ring-gai's biodiversity that is of national significance.

The current EPBC Act has not effectively addressed Australia's most significant environmental challenges: climate change, land clearing in urban bushland areas, and cumulative impacts.

FOKE supports improved monitoring reporting tools and enforceable national environmental standards.

These need to be established to ensure best practice, particularly the capacity to include red light – no-go zones.

It is important that independently appointed and accredited consultants to improve environmental assessment quality and information. New and improved monitoring and reporting tools need to be made under the EPBC Act.

The EPBC Act has failed, in its current form, to meet the challenges raised in the most recent State of the Environment Report (2016) that confirms Australia's environment is in decline. In relation to biodiversity, State of the Environment Report (2016) concludes:

Australia's biodiversity is under increased threat and has, overall, continued to decline. All levels of Australian government have enacted legislation to protect biodiversity... However, many species and communities suffer from the cumulative impacts of multiple pressures. Most jurisdictions consider the status of threatened species to be poor and the trend to be declining...

The EPBC Act needs to be substantially amended to address:

- lack of an overarching national policy that establishes a clear vision for the protection and sustainable management of Australia's environment to the year 2050;
- poor collaboration and coordination of policies, decisions and management arrangements across sectors and between managers (public and private);
- a lack of follow-through from policy to action;

- inadequacy of data and long-term monitoring;
- insufficient resources for environmental management and restoration; and
- inadequate understanding and capacity to identify and measure cumulative impacts.

Future trends of biodiversity extinction and climate emergency for Ku-ring-gai

Question 7: What additional future trends or supporting evidence should be drawn on to inform the review?

The EPBC Act needs to ensure more vigorous assessment of ecosystems as the basis for planning and decision-making and that these be reviewed and updated on a regular basis.

There needs to be rapid identification of places under imminent threat,

Other immediate and essential actions to protect the national environment include:

- support the Minister's legal duty to identify, assess and list (via the Scientific Committee) all nationally Threatened Ecological Communities within five years (major report), with ongoing duties to keep lists up-to-date;
- identify, recognise and map the new Commonwealth-protected matters of Ecosystems of National Importance and a comprehensive, adequate and representative National Reserve System;
- provide a properly resourced and comprehensive update to Australia biodiversity mapping and integrated data-sharing systems;
- better inform a national network of bioregional plans;
- identify baselines, reference points or indicators for a system of National Environmental Accounts, with clear timeframes, stages and budgetary allocations from the Commonwealth, state and territory governments; and
- promote the concept of ecosystem services and identify the benefits (or services) that key natural assets provide to human society, consistent with the Aichi targets under the Convention on Biological Diversity.

More urgent Commonwealth intervention to protect Ku-ring-gai's environment

Question 8:

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

Question 9:

Should the EPBC Act position the Commonwealth to take a stronger role in delivering environmental and heritage outcomes in our federated system? Who should articulate outcomes? Who should provide oversight of the outcomes? How do we know if outcomes are being achieved?

Question 22:

What innovative approaches could the review consider that could efficiently and effectively deliver the intended outcomes of the EPBC Act? What safeguards would be needed?

The EPBC Act needs to be strengthened to achieve environmental outcomes, especially for biodiversity.

Biodiversity protection can be enhanced by resourcing expert scientific bodies to give the advice on how to ensure Australia (and Ku-ring-gai) achieves long-term biodiversity goals, standards, and indicators.

The EPBC Act should require government responses to the State of Environment Reports (SoE) tabled by state, territory and Commonwealth governments.

SoE reports need to include rigorous, comprehensive assessment and tracking of environmental baselines, outcomes and trends across a range of themes over time. For biodiversity, this could include threatened species and ecological community nominations, listings and trends, key threats to biodiversity, recovery plans, bioregional plans and protected area management plans.

The objects of the Act must prevent extinction and ensure recovery of threatened species. Where these aims have not been met and extinction does occur, the EPBC Act should include a process of formal inquiry similar to coronial inquests into human deaths.

The EPBC Act should include inquiries into extinction that are conducted by a panel of qualified experts to determine the (likely multiple) causes of extinction, and make recommendations on future conservation management, policy or law reform, in order to prevent future extinctions.

Need for clearer, more consistent national environmental goals, standards, indicators and data is a major barrier to effective environmental decision-making in Ku-ring-gai.

Question 10:

Should there be a greater role for national environmental standards in achieving the outcomes the EPBC Act seeks to achieve? In our federated system should they be prescribed through: - Non-binding policy and strategies? - Expansion of targeted standards, similar to the approach to site contamination under the National Environment Protection Council, or water quality in the Great Barrier Reef catchments? - The development of broad environmental standards with the Commonwealth taking a monitoring and assurance role? Does the information exist to do this?

The lack of clear and consistent national environmental goals, standards, indicators and data is a major barrier to effective environmental decision-making in Australia.

The EPBC Act should require the establishment of national goals to achieve positive environmental that:

- prevent extinction of native species and ecosystems;
- meet goals in recovery plans; and
- integrate and assess ‘ecosystem services’ and values in all levels of decision making.

The goals should be specific. For example, no loss of species, no reduction in ecosystem extent beyond a particular limit (or recovery if already below standard), no detrimental/negative change in ecological character of Blue Gum High Forest.

Bipartisan environmental laws are needed to ensure national environmental goals are achieved, these must be based on best available science. The obligation of the EPBC Act is not to allow the environment to worsen, but must ensure continuous improvement in achieving environmental goals.

Regeneration, Restoration and Fund Ku-ring-gai

Question 11:

How can environmental protection and environmental restoration be best achieved together?

- Should the EPBC Act have a greater focus on restoration?*
- Should the Act include incentives for proactive environmental protection?*
- How will we know if we're successful?*
- How should Indigenous land management practices be incorporated?*

Question 25:

How could private sector and philanthropic investment in the environment be best supported by the EPBC Act?

- Could public sector financing be used to increase these investments?*
 - What are the benefits, costs or risks with the Commonwealth developing a public investment vehicle to coordinate EPBC Act offset funds?*
-

Restoration of degraded and rare habitats is an important challenge that requires clear legislative provisions and land management incentives.

The Act should make it clear that adverse actions must not be approved in areas of critical habitat for threatened species or ecological communities, such as remnant Blue Gum High Forest. Further, no biodiversity offsets should be available for critical habitat due to its essential role in preventing extinction.

Enhanced Local and Landscape Conservation Approach for Ku-ring-gai

Question 13:

Should the EPBC Act require the use of strategic assessments to replace case-by-case assessments? Who should lead or participate in strategic assessments?

Question 16:

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

FOKE argues that the EPBC Act needs a landscape approach if it is to protect Ku-ring-gai's environment. Landscape-scale approaches plan holistically for ecosystem health, resilience, connectivity and climate change readiness.

The Act should embed best practice strategic assessment by specifying:

- strong legislated standards, decision-making criteria and science-based methods, including a 'maintain or improve' environmental outcomes test and requirements to be consistent with recovery plans and threat abatement plans;
- cumulative impact assessment requirements, taking account of past, present and likely (approved) future activities at the relevant scale;
- guidelines to support integration of federal strategic assessment with state and local planning processes at the earliest possible stage;
- comprehensive and accurate mapping and baseline environmental data;
- mandating transparency and public participation at all phases of the process, including to verify post-approval compliance, to ensure community confidence and acceptable outcomes;
- requiring alternative scenarios to be considered, including for climate change adaptation, to enable long-term planning for realistic worst-case scenarios;
- ground-truthing of landscape-scale assessment via local studies and input;
- adaptive management and review once a program is accredited to respond to new discoveries, correct unsuccessful trajectories or implement best available technology;
- strategic assessment may complement site-level assessment where appropriate, not necessarily replace it; and

EPBC Act needs to improve environmental outcomes for Ku-ring-gai

Question 14:

Should the matters of national significance be refined to remove duplication of responsibilities between different levels of government? Should states be delegated to deliver EPBC Act outcomes subject to national standards?

Question 17:

Should the EPBC Act be amended to enable broader accreditation of state and territory, local and other processes?

‘Green tape’ must not be used as an excuse to speed up economic development
The EPBC Act must demonstrate improved environmental outcomes.

FOKE strongly opposes the devolving federal approval responsibilities to states and territories. The NSW Government is the driver of environmental destruction for Ku-ring-gai, and urgently needs federal intervention.

In recent years the NSW Government have disgracefully weakened biodiversity and planning laws that have contributed to biodiversity extinction.

It is essential that the Australian Government retain a strong leadership role in setting standards and ensuring environmental outcomes are delivered, consistent with our international obligations.

Environmental Database needed for Ku-ring-gai

Question 15:

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

- How could data help support this approach?

- Should a national environmental database be developed?

- Should all data from environmental impact assessments be made publically available?

A data hub, system of national environmental accounts and National Ecosystem Assessment should underpin the EPBC Act and inform decision-making.

FOKE supports a national environmental database, with data being made publicly available.

Ku-ring-gai has suffered from NSW legislation that permits approval by exempt or complying development. This has contributed to significant cumulative impacts. The use of private certifiers to ‘tick off’ on these developments has been extraordinarily problematic for Ku-ring-gai.

Currently, laws are hampered by the lack of detailed mapping of nationally threatened species and ecological communities, and a lack of data and knowledge about the range and status of biodiversity across Australia.

Urgent funding is needed at the Commonwealth, NSW Government and Ku-ring-gai Council level for dedicated environmental information management programs.

Failure of 'self-regulation' for Ku-ring-gai

Question 18:

Are there adequate incentives to give the community confidence in self-regulation?

FOKE holds no confidence in self-regulation to protect the environment.

The NSW Government 10/50 Vegetation Clearing legislation and Code of Practice (the 10/50 Code) has allowed trees to be removed without Council approval within a 10 metre proximity to a home and other vegetation within a 50 metre radius in a designated fire threat area. This has led to widespread misuse and destroyed hundreds of trees across Ku-ring-gai.

Many historic and significant trees have been felled in areas that are not seen as bushfire prone areas and have been allowed to for development.

Self-regulation is a destructive policy as the 10/50 Code has shown, particularly as it does not consider the incremental impacts from multiple actions.

FOKE holds significant ethical concerns about self-regulation. Absence of an effective and active compliance regime can actually constitute an incentive for non-compliance, which in turn undermines the delivery of environmental outcomes.

Stronger Community representation in environmental decision-making in Ku-ring-gai needed

QUESTION 20:

How should community involvement in decision making under the EPBC Act be improved? For example, should community representation in environmental advisory and decision-making bodies be increased?

The EPBC Act must ensure strong public participation provisions where decisions are informed by genuine community engagement, rather than the current ‘tick the consultation box’ that FOKE has witnessed over many years, of successive community consultation over increasing housing density for the area.

The EPBC Act should require decision-makers to take all public submissions into account, provide statements of reasons for decisions, and demonstrate how public feedback affected the final outcome.

The EPBC Act must provide standing for interested parties to seek merits review of a limited set of key decisions that impact biodiversity in an arms-length court or tribunal. This anti-corruption and accountability measure is in keeping with various expert reviews and recommendations.

In particular, merits review of decisions should be available on the following matters (within a limited time after the decision is publicly notified):

- decision not to list (or uplist) a nominated species, ecological community, national heritage, critical habitat, or protected area;
- whether a proposed activity is a ‘controlled action’, and if so, the assessment method required;
- the adequacy of a recovery plan made for a species or ecological community;
- permits affecting nationally-protected species; and
- advice about whether an action would breach a conservation order.

The EPBC Act should require the publication of easily accessible, timely public information on actions, biodiversity assessments and decisions. All relevant information about a proposed action or a decision must be transparent and readily available to the community.

The public should be empowered to have third party rights to take environmental breaches to court. The NSW Independent Commission Against Corruption notes, third party rights provide ‘an important check on executive government’.

To enable members of the community to use laws to protect biodiversity, the EPBC Act must provide for protective costs orders for public interest legal proceedings. This means the EPBC Act would need to empower the Federal Court to decide whether a case is a public interest proceeding and, if so, determine the appropriate form of public interest costs order; prohibit security for costs orders in public interest proceedings under the EPBC Act; and not require a public interest applicant to give an undertaking as to damages as a precondition to granting an interim injunction, where the action is to urgently protect a matter of national environmental significance.

Stronger obligation on Minister and Agencies to protect Ku-ring-gai

Question 21:

What is the priority for reform to governance arrangements? The decision-making structures or the transparency of decisions? Should the decision makers under the EPBC Act be supported by different governance arrangements?

The community has public trust in the Federal Government's capacity and integrity to implement best-practice biodiversity laws.

It is no longer acceptable for the Minister to have discretionary powers to protect, or not protect, biodiversity.

FOKE has serious concerns for failings of the EPBC Act's Recovery plans and believes that more needs to be done to protect Ku-ring-gai's critical habitat. The state of Ku-ring-gai's threatened species and ecological communities need to be kept up-to date with reviews.

As successive State of the Environment reports have found, effective implementation of biodiversity protections requires significantly increased resources and funding.

The Federal Government must adequately resource agency capacity. Funding is frequently disrupted by political cycles, stop-start program funding, agency restructures and 'efficiency measures'. All this is happening when key threats like climate change, land clearing and invasive species accelerate. Sustained investment is needed in new services, databases and other tools to conserve biodiversity conservation. The Federal government's environmental agencies need to educate the Australian public more on the importance of healthy and resilient ecosystem services for human health and wellbeing, indeed survival.

Ecosystem services assist food and fibre production, regulate water, soil and atmospheric systems, and support recreational, cultural and mental health. Estimating the value of ecosystem services can reveal social costs or benefits that otherwise would remain hidden. Once identified and understood, these values must be considered in the decision-making process.

Abolish biodiversity offsetting

Question 23: Should the Commonwealth establish new environmental markets? Should the Commonwealth implement a trust fund for environmental outcomes?

Question 24: What do you see are the key opportunities to improve the current system of environmental offsetting under the EPBC Act?

The EPBC Act should abolish biodiversity offsetting – as they have been a total failure in protecting critical habitat, endangered or critically endangered species and ecological communities. Some assets are too significant to offset.

Urgent Need for Stronger Recovery Plans for Ku-ring-gai's Critically Endangered Forests

Question 26:

Do you have suggested improvements to the suggested principles? How should they be applied during the Review and in future reform?

The EPBC Act needs to have much stronger Recovery Plans.

FOKE remains dismayed at the lack of action on protecting its Critically Endangered Blue Gum, Sydney Turpentine Ironbark Forest and Duffy Forest ecological communities.

On the 26 August, 2005 the Blue Gum High Forest of the Sydney Basin Bioregion was listed as Critically Endangered under the EPBC Act. However “there is no adopted or made Recovery Plan for this ecological community”.³

Within this Blue Gum High Forest is the nationally listed Endangered Swift Parrot (*Ninox strenua*), and the nationally listed Vulnerable Grey-headed Flying Fox (*Pterous poliocephalus*) Blue Gum High Forest in Ku-ring-gai (in the Sydney Basin Bioregion) is listed as Critically Endangered.

Three of the five largest high-quality remnants of the listed Blue Gum High Forest ecological community occur on public land of Dalrymple-Hay Nature Reserve and Sheldon Forest in Ku-ring-gai Local Government Area (LGA).

The other two largest quality listed remnants occur in Ku-ring-gai LGA near Fox Valley Road and Burns Road. Two occurrences of the listed ecological community within larger areas of native vegetation also occur in Ku-ring-gai LGA and are located near Burns Road (between Finchley and McRae Place) and south of Mount Pleasant Avenue (between Mt Pleasant and Browns Road) (Threatened Species Scientific Committee 2005).⁴

³ www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=47&status=Critically+Endangered

⁴ www.environment.gov.au/cgi-bin/sprat/public/publicshowcommunity.pl?id=47&status=Critically+Endangered

Appendix 1: Important ESD indicators

- *Prevention of harm*: Taking preventative actions against likely harm to the environment and human health.
 - *Precautionary principle*: Taking precautionary actions against harm that would be serious or irreversible where scientific uncertainty remains about the likelihood of that harm; and engaging transparently with the risks of potential alternatives.
 - *Intergenerational equity*: The present generation has an obligation to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations
 - *Intra-generational equity*: The present generation has an obligation to ensure that environmental costs, benefits and outcomes are borne equitably across society.
 - *Biodiversity principle*: Ensuring that biodiversity and ecological integrity are a fundamental consideration in decision-making, including by preventing, avoiding and minimising actions that contribute to the risk of extinction.
 - *Environmental values principle*: Ensuring that the true value of environmental assets is accounted for in decision-making – including intrinsic values, cultural values and the value of present and future ecosystem services provided to humans by nature.
 - *Polluter pays principle*: Those responsible for generating waste or causing environmental degradation should bear the costs of safely removing or disposing of that waste, or repairing that degradation.
 - *Scientific basis*: Achieving high levels of environmental protection, by using the best available scientific information.
- Continuous improvement of environmental standards*: Achieving high levels of environmental protection continuous improvement of environmental standards.
- *Resilience principle*: Strengthening the resilience of biodiversity and natural systems to climate change and other human-induced pressures on the environment. Embedding a modernised set of ESD principles in the Act will help ensure that decision making is consistent with maintaining and strengthening the environmental systems that operate on a local, regional, national or global level, including to support the diversity of life on Earth.

It is important to remember the environment cannot be reduced to a dollar value.