



# Blueprint for the Next Generation of Australian Environmental Law

**APEEL**

The Australian Panel of Experts  
on Environmental Law

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The next generation of environmental laws will need to recognise explicitly the role of humanity as a trustee of the environment and its common resources, requiring both care and engagement on behalf of future generations.

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## SUMMARY OF APEEL'S KEY IDEAS

This summary presents the key proposals that emerged from APEEL's efforts to develop a 'blueprint' for the next generation of Australian environmental law. A short explanation of each proposal follows in this paper, while a much fuller discussion can be found in the relevant APEEL Technical Paper, as noted below in relation to each proposal.

### Idea 1: Societal goal

The Commonwealth should initiate a wide-ranging, national consultative process to establish a societal goal for Australia that will enhance or replace the current *National Strategy for Ecologically Sustainable Development*, for adoption through the next generation of environmental law in Australia.

**See Technical Paper 1, Recommendation 1.1.**

### Idea 2: Design principles for environmental law

Design principles should guide the drafting of the next generation of Australian environmental law, regarding, for example:

- 'smart regulation' (including using a complementary combination of regulatory instruments and harnessing a broad range of environmental actors as surrogate regulators);
- the use of economic instruments;

- regulatory tools such as impact assessment (including environmental, health and social impact assessment at both a strategic and project level, and the assessment of cumulative impacts);
- procedural aspects of environmental democracy;
- flexible and responsive environmental governance (including continuous improvement);
- landscape-scale ecological restoration; and
- non-regression (that is, there should be no reduction in the level of environmental protection provided by the law).

**See Technical Paper 1, Recommendation 1.3.**

### Idea 3: Directing principles to guide decision-making

Directing principles which specify matters that must be considered when making decisions and policies under environmental legislation should be prescribed in the next





Kalbarri National Park

generation of environmental laws; in particular:

- the precautionary principle (together with provision for public engagement concerning when potential risk or harm is acceptable);
- the prevention (of harm) principle; and
- two new principles concerning environmentally sustainable innovation:
  - a principle of achieving a high level of environment protection; and
  - a principle of applying Best Available Techniques.

**See Technical Paper 1, recommendation 1.6.**

#### **Idea 4: General environmental duties**

Legal norms in the form of general environmental duties should be imposed on all legal persons by the next generation of environmental laws, in particular to:

- **take care to** prevent or minimise environmental harm likely to arise from their activities; and
- **repair** environmental harm they have caused and restore ecological functions they have impaired (to the greatest extent practicable).

**See Technical Paper 1, recommendation 1.4.**

#### **Idea 5: Substantive and procedural rights**

Environmental norms in the form of substantive and procedural rights based on the concept of environmental democracy should be a core component of the next generation of environmental law. These should include:

- a substantive right to a safe, clean and healthy environment; and
- procedural environmental rights (including the right to information, to public participation and to access to justice in environmental matters).

**See Technical Paper 8, recommendation 8.1**

#### **Idea 6: Strategic environmental leadership**

The Commonwealth should provide strategic leadership on the environment by the following means:

- the Commonwealth should produce a **Declaration of Commonwealth Environmental Interests** that defines both the environmental matters in which it has an interest and the strategic and regulatory functions related to the environment that it intends to perform;
- the Declaration of Commonwealth Environmental Interests and consequential Commonwealth environmental legislation should empower the proposed Commonwealth Environment Commission (see Idea 7)





Southern cassowary. Its habitat loss and fragmentation is exacerbated by extreme weather events. In February 2011 Cyclone Yasi destroyed a large area of cassowary habitat, endangering around 10% of the total Australian population.

to develop and adopt **Commonwealth Strategic Environmental Instruments (CSEIs)**;

- CSEIs should be composed of **national environmental measures** in the form of strategies, programs, standards and protocols and **regional environmental plans** comprising terrestrial, landscape-scale bio-regional plans and marine bio-regional plans (see also Idea 13);
- new Commonwealth environmental legislation should include provision for oversight by the Federal Court of Australia and the Australian National Audit Office of the requirement that the proposed Commonwealth Environment Commission develop and adopt CSEIs;
- where CSEIs have been developed and adopted by the Commonwealth Environment Commission, their implementation by the States and Territories

and the Commonwealth should be secured at first instance through **implementation plans** prepared by the relevant State and Commonwealth authorities and approved by the Commission;

- to encourage the development of implementation plans and their subsequent delivery by the States and Territories, Commonwealth environmental legislation should provide:
  - an incentive in the form of arrangements for direct financial assistance to the States and Territories; and
  - a sanction in the form of provision for conditional pre-emption of State and Territory laws by Commonwealth regulations made, where necessary, for this purpose.

**See Technical Paper 2, recommendations 2.1–2.9; Technical Paper 3, recommendation 3.1; and Technical Paper 4, recommendation 4.2.**

### Idea 7: Commonwealth environmental institutions

Responsibility for the implementation of the next generation of environmental law at the Commonwealth level should be vested in two independent statutory authorities, as follows:

- a Commonwealth Environment Commission (see also Idea 6 above) whose responsibilities would include:
  - the development and adoption of CSEIs;
  - the examination and approval of implementation plans prepared by State and Commonwealth authorities in relation to each CSEI adopted by the Commonwealth Environment Commission; and
  - advice and recommendations to the Commonwealth Environment Minister on the provision of direct financial assistance to the States and Territories, and/or the making of regulations to pre-empt the operation of State laws where this is considered necessary to secure the implementation of a CSEI.

(see also Idea 12 regarding environmental data collection, monitoring, auditing and reporting)

- a Commonwealth Environment Protection Authority whose responsibilities would include:
  - administration of the Commonwealth's system of environmental assessment and approvals;
  - other environmental regulatory functions currently exercised across a range of different Commonwealth agencies and authorities; and

- environmental regulation of activities undertaken by Commonwealth authorities or by other parties on Commonwealth land.

**See Technical Paper 2, recommendations 2.14 and 2.15**

### Idea 8: The private sector

Law reform to facilitate private sector innovation and leadership in collaborative environmental governance should:

- introduce a general duty under corporations law for companies to:
  - report on their environmental performance; and
  - adopt environmental management systems and procedures that will facilitate ongoing improvements in their environmental performance;
- reform the income, business and property tax systems to reward environmentally beneficial practices, such as in land management and pollution control;
- redefine the fiduciary and trust law responsibilities of financial investors, such as superannuation funds and banks, to require them to consider and manage long-term environmental risks to their investment portfolios, such as from climate change and loss of biological diversity;

Pink Lakes (salt lakes) at Murray-Sunset National Park







Golden Sun Moth. With only small populations now found in ACT, NSW and VIC, it is continually threatened by urban development.

- require the Commonwealth's Future Fund and other Crown financial organisations to demonstrate best practice by taking into account financially material environmental risks and by investing in sustainable development; and
- allow the establishment of corporate 'hybrid' enterprises that blend profit-maximisation and community benefit goals.

**See Technical Paper 7, recommendations 7.1–7.4.**

### **Idea 9: Indigenous Australians**

The interests and voices of Australia's Indigenous peoples should be included in the making and implementation of environmental policy, programs, plans and decisions, including through:

- more effective engagement by Commonwealth, State and Territory governments with Indigenous communities in strategic planning for terrestrial and marine governance (see also Idea 13);
- the adoption of culturally appropriate governance models for Indigenous managed areas and co-managed areas (see also Idea 13); and
- the prescription of procedures and practices, and the provision of appropriate resources to Indigenous community representatives, to ensure the effective functioning of the principle of free, prior and informed consent in relation to matters concerning their connection to land, water and other resources.

**See Technical Paper 3, recommendation 3.7; Technical Paper 4, recommendation 4.7; and Technical Paper 8, Recommendation 8.2.**

### **Idea 10: Integrity and accountability**

A special department should be established within the Australian National Audit Office to monitor and report on the performance of Commonwealth environmental agencies, including the Commonwealth Environment Protection Authority and the Department of Environment and Energy, and to advise the Commonwealth Environment Commission on the need for new CSEIs.

### **Idea 11: Resources**

The Commonwealth should develop a National Environmental Investment Plan that will address the fundamental challenge of effectively resourcing environmental management in Australia by identifying strategies to generate increased private and public sector funding. Resources generated through this Plan could be invested in an Environment Future Fund managed by the Commonwealth that could, for example, be deployed to assist the implementation of CSEIs or ecological restoration.

**See Technical Paper 2, recommendation 2.15.**

### **Idea 12: Environmental data**

The Commonwealth Environment Commission should be responsible under its enabling legislation for the development of a nationally coordinated approach to environmental data collection, monitoring, evaluation and reporting.

**See Technical Paper 2, recommendation 2.14; and Technical paper 3, recommendation 3.4.**





Great Otway National Park

### Idea 13: Conserving nature (terrestrial and marine)

To ensure efficient and effective natural resource governance, the Commonwealth should establish a system of cross-sectoral, ecosystem-based planning and management in terrestrial, marine and coastal areas ('bio-regional planning'). This system of bio-regional planning would:

- be based on Plans developed by the Commonwealth as regional CSEIs (see Idea 6 above);
- involve a process that engages deeply with stakeholder groups, including Indigenous groups and native title or sea-country rights holders; and
- set clearly defined objectives, priorities and measurable outcomes for ongoing monitoring of implementation and environmental trends.

**See Technical Paper 3, recommendation 3.1; and Technical Paper 4, recommendation 4.2.**

### Idea 14: Climate change and clean energy

The next generation of environmental laws will need to provide for a comprehensive national response to climate change. This should include:

- the imposition of a price on carbon;
- ambitious emissions reduction targets seeking progressive reductions in emissions up to 2050 when emissions should be close to zero or below zero;
- the removal of fossil fuel subsidies;
- the provision of incentives for renewable energy and low-carbon initiatives; and
- an extended role for the Clean Energy Finance Corporation.

**See Technical Paper 5, recommendations 5.1 and 5.6; and Technical Paper 6, recommendations 6.1, 6.2 and 6.5.**



## 1. INTRODUCTION

### 1.1 The need for a new generation of Australian environmental law

Australia is one of the most ancient, naturally beautiful and biodiverse places on Earth. It has nineteen World Heritage properties, sixty-five Ramsar wetlands and more than one million species of plants and animals, many of which are found nowhere else. Australia is rich in many natural and cultural resources, but some, such as water, are scarce. All Australians benefit from at least 60,000 years of caring for Country by Indigenous Australians.

It is vital that we retain and protect this unique environment. It is also essential to recognise and repair the extensive modification and damage done to our natural ecosystems since colonisation. These tasks are essential to our social, economic, spiritual and personal wellbeing. Our human existence is essentially and intimately connected with the environment and its condition. That connection can be conceived in various ways. Natural environments are important to humans for their intrinsic value, and their protection and restoration might be considered a fundamental human obligation. More recently, this imperative has also been viewed in terms of the need to protect the ecosystem services provided by nature, upon which humanity depends for its survival.

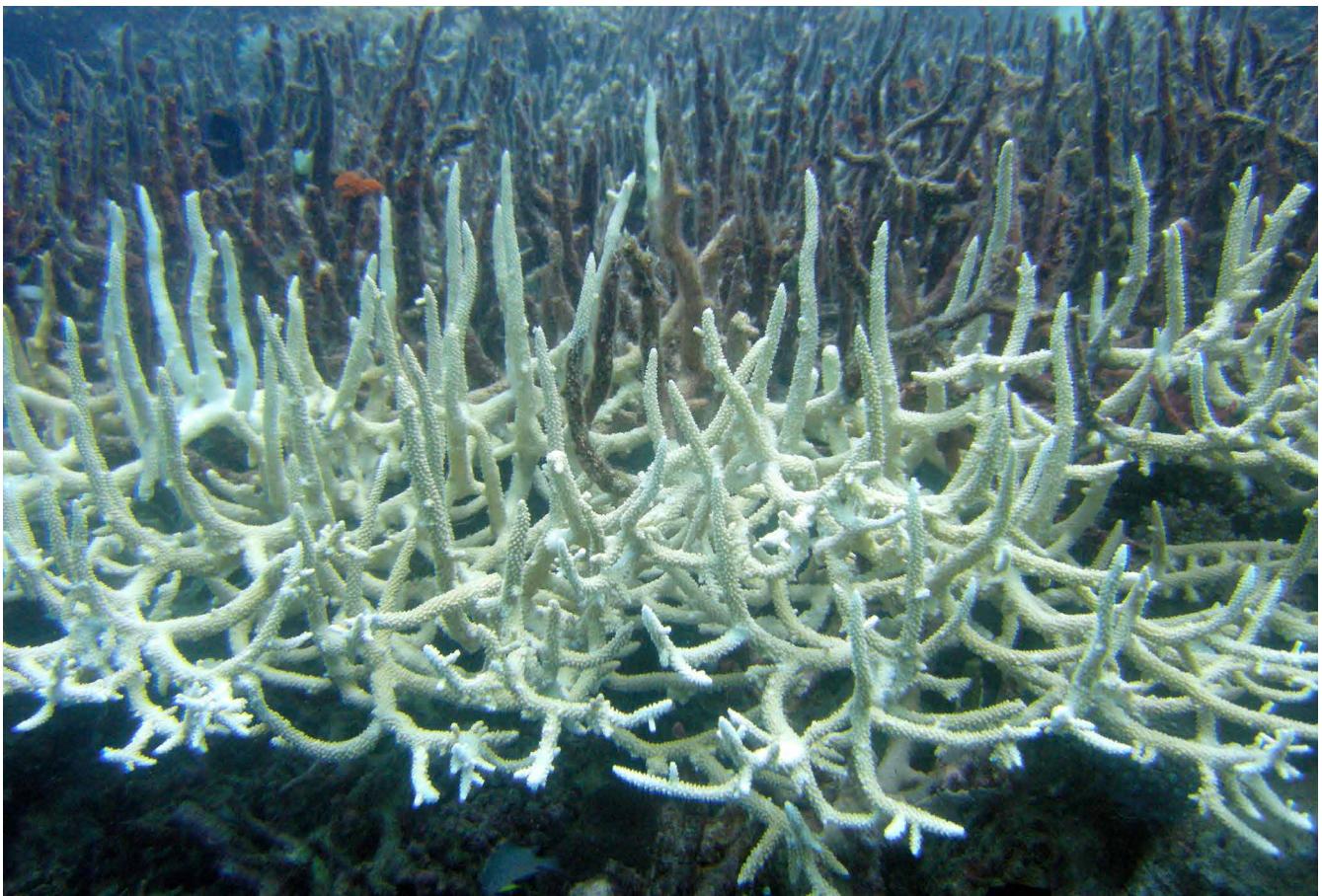
Unfortunately, the Australian environment is suffering significant degradation. This was demonstrated in the national *State of the Environment Report 2016*, which identified persistent problems such as a decline in biodiversity, the degradation of productive rural land, intensification of development along coastlines and in sprawling cities, and the emerging impacts of climate change. These problems come on top of much past environmental damage that needs to be repaired.

Some current problems are cumulative and complex, resisting earlier types of legal solutions: for example, invasive and feral species, land degradation, depletion of water resources, marine plastic debris and, most difficult of all, climate change.

There is a limit to what laws can achieve, but they are an essential part of any robust system of environmental governance. Environmental laws should effectively enable the protection, conservation, management and, where needed, restoration of our natural heritage. The effectiveness of our environmental laws must be founded on the values of integrity, transparency and accountability, in both their formulation and enforcement. These laws also must be kept up to date, so that they continue to reflect our ever-changing environmental, social and political conditions.

Our current environmental laws fall short of these standards.

Bleached Staghorn Coral in the Great Barrier Reef







Flynn Reef, part of the Great Barrier Reef, 2011

The Australian environmental law system at Commonwealth and State and Territory levels comprises statutes, regulations, codes and policies – sometimes overlain by international ‘soft’ and ‘hard’ law. It has evolved incrementally, often in response to a particular controversy, with little or no attempt at comprehensiveness or the application of foundational principles. There is no single source of Australian environmental law, which means that the system is complex, inconsistent in its scope and use of terminology, and often overlapping. At the Commonwealth level, there are over seventy laws dealing with environmental issues, and there are countless more in the States and Territories. This grab-bag of laws has created a multitude of policy-making and enforcement institutions, of varying transparency and competence. Clustered around these institutions is a diverse range of stakeholders, with varying degrees of influence.

Environmental laws that appear sound are frequently not effectively implemented. Many legal requirements are not enforced because of their ambiguity, a lack of necessary resources or because they are overridden by economic, political or other considerations.

It is time to address the need for more effective environmental laws – laws that will creatively meet Australia’s ecological and governance challenges. We need laws that will maximise our chances of achieving a healthy and resilient environment that will benefit not only our generation, but also all future generations. The task that APEEL has set itself is to design a ‘blueprint’ for a new generation of Australian environmental laws.

## 1.2 The APEEL approach

In 2013, a network of leading environmental non-government organisations across Australia established the Places You Love Alliance to speak with one voice on key environmental issues. Places You Love identified the need for a long-term vision for Australia’s environmental governance. From this decision, in November 2014 the Australian Panel of Experts in Environmental Law (APEEL) was launched. APEEL comprises fourteen experts in environmental law, including academics, practising lawyers and a former Federal Court judge. It is supported by eight Expert Advisors who have reviewed APEEL’s papers and provided advice. APEEL has been provided with logistical support by Places You Love but it is independent of the Alliance.

APEEL released eight Technical Papers and an Overview Paper in April 2017. After receiving and considering feedback, panel members met to decide upon the key reform ideas to present in this paper. In developing our ideas for reform, we considered many topics but decided to focus on broad, systemic issues rather than responses to specific environmental problems. We received submissions urging us to make detailed recommendations about particular topics such as endangered and invasive species, forestry, urban planning systems and the protection of public health. These are important matters. However, we felt that our task of outlining our ideas for the next generation of environmental law required us primarily to define the broad parameters and key elements of a better law and governance system. By this means, we hope to establish a framework for significant



improvements in environmental regulation across all environmental issues.

Our approach has involved us discussing broad themes such as environmental governance and democracy and, related to this, the achievement of integrity, transparency and accountability. However, we also selected two broad issues that are of extreme contemporary importance: the conservation of nature (terrestrial and marine) and the challenges of climate change. Even here we have necessarily taken a 'macro', rather than a 'micro', approach.

Finally, we have looked outside the traditional confines of environmental law and proposed some fundamental reforms to 'economic' laws concerning corporate governance, finance and taxation that we believe might deliver important environmental benefits. Given that our task has been to consider the next generation of *Australian* environmental law, inevitably our focus has been on *Commonwealth* laws and institutional arrangements. However, we do not overlook the important role of the States and Territories. We hope and expect that reform of Commonwealth law will have a flow-on effect within the laws of the States and Territories.

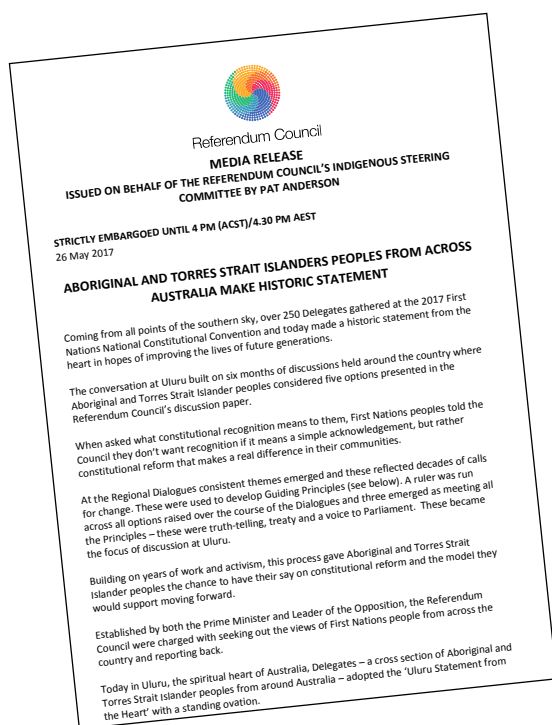
### 1.3 Acknowledgement and recognition of Indigenous Australians' rights

The APEEL members acknowledge Australia's Traditional Owners. We pay respect to the past and present elders of the nation's Indigenous communities. We recognise the deep spiritual, cultural and customary connections of Traditional Owners to Country and that Australian law needs to better recognise these connections.

Australian law does recognise Indigenous Australians' land and water rights over large parts of the continent. It provides some specific legal protections through measures such as Indigenous Protected Areas and Indigenous Land Use Agreements, rights to the protection of cultural heritage, and access to traditional resources. However, as the original inhabitants and custodians of Australia's lands and waters, their customary laws, ecological knowledge, care for Country, and tangible and intangible culture also should be respected through Commonwealth, State and Territory laws.

This imperative is recognised in Australia's statement of support for the *United Nations Declaration on the Rights of Indigenous Peoples*, which contains many provisions relating to the recognition of the interests of indigenous Australians in environmental management. The Declaration sets out principles upon which Indigenous Australians, the Australian Government and community can build a partnership around respectful engagement on the environment, through law.

The 2017 *Uluru Statement from the Heart* conveys a clear message that Indigenous leaders expect more than



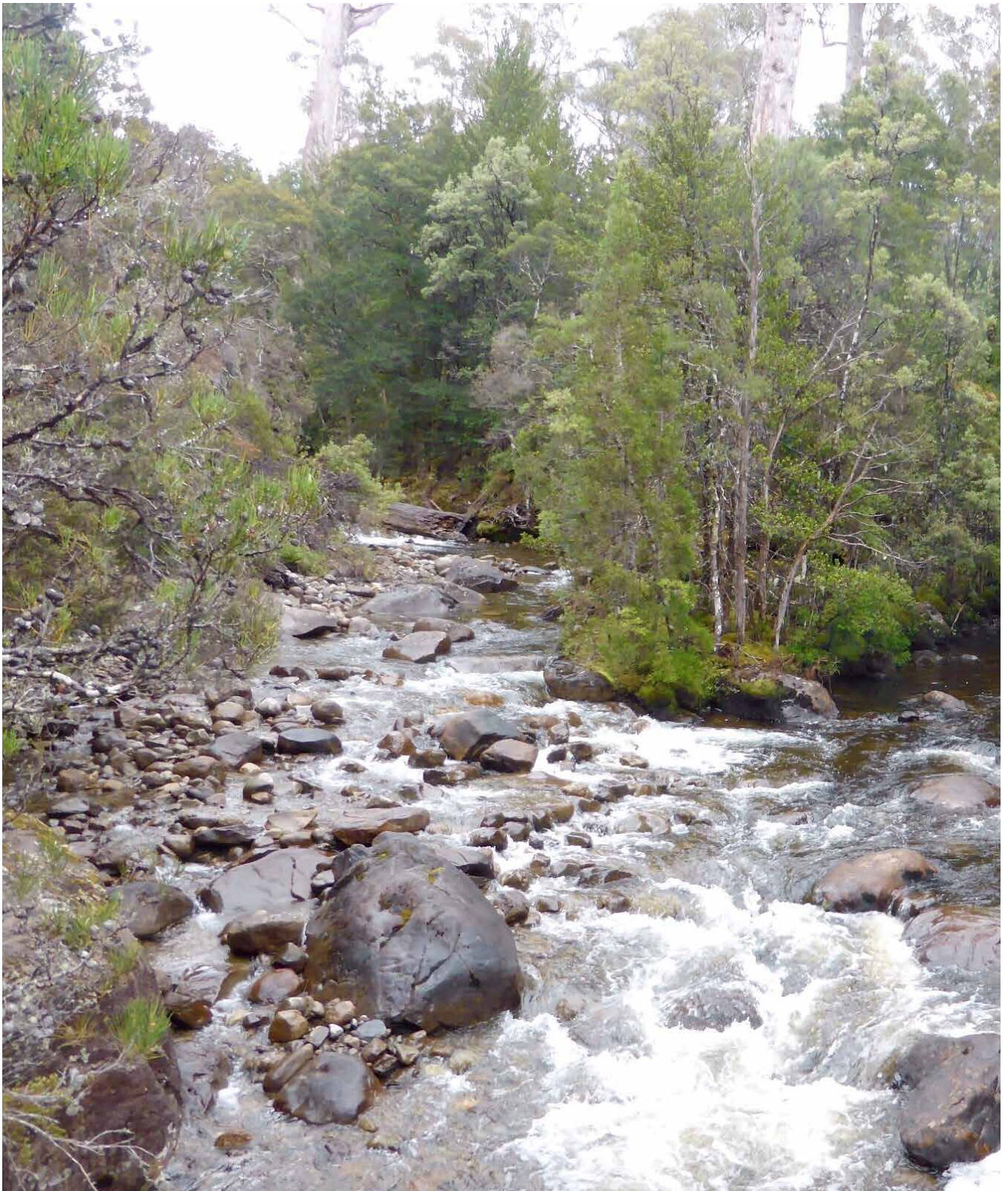
The Uluru Statement from the Heart was released 26 May 2017



symbolic legal changes. In our papers on terrestrial and marine biodiversity (Technical Papers 3 and 4) and environmental democracy (Technical Paper 8), we have made specific recommendations intended to strengthen Indigenous Australians' environmental rights. We do so with a recognition that Indigenous Australians demand a legal and political platform to speak for themselves and to shape the future that they want.

We believe that Indigenous Australians must be heard independently of other voices. APEEL, in putting forward a vision for a new generation of environmental law for Australia, acknowledges that any future reforms in environmental law must take into account the interests of Indigenous Australians in a manner that fully respects their existing and evolving legal rights. We offer some more specific ideas in this regard in Section 3.3.3 below.

Franklin River, Tasmanian Wilderness World Heritage Area





## 2. THE FOUNDATIONS OF ENVIRONMENTAL LAW

Certain foundational elements underpin the legal treatment of specific environmental issues. These have been recognised through the evolution of environmental law over the past fifty years. We have concluded that the next generation of Australian environmental law should be based upon a clear foundation that comprises:

- the endorsement of an agreed societal goal;
- a reflection of essential design principles;
- the prescription of specific directing principles; and
- the creation of general environmental rights and duties.

We set out below our specific ideas on each of these foundational elements of environmental law. We note that particular concepts may appear in more than one such element; in particular, we have reflected certain design principles also as specific rights or duties. We also accept that there may be some debate concerning our suggested directing principles, both existing and proposed. This is a steadily evolving area where the relevant principles may change over time.

### 2.1 Societal goal

#### Idea 1: Societal goal

The Commonwealth should initiate a wide-ranging, national consultative process to establish a societal goal for Australia that will enhance or replace the current National Strategy for Ecologically Sustainable Development, for adoption through the next generation of environmental law in Australia.

It is twenty-five years since the Council of Australian Governments adopted the National Strategy for Ecologically Sustainable Development (NSESd). A review is long overdue. Taking into account also the adoption by the United Nations of the Sustainable Development Goals in 2015, we believe the Commonwealth should start a consultative process to explore a societal environmental goal for Australia that will enhance or replace the NSESd. APEEL has not sought to define this goal, recognising that opinions on its nature may differ widely within Australian society.

### 2.2 Environmental principles

Environmental law experts usually approach the subject of the foundational elements of environmental law by examining a wide range of **principles of environmental law**. We have analysed the many different principles that have been discussed in this context and distinguish between two distinct types as follows:

- **design principles** are principles that are external to environmental legislation but which serve to guide its desirable content; and
- **directing principles** are principles prescribed in environmental legislation which must be considered by those responsible for its implementation.

#### Idea 2: Design principles for environmental law

Design principles should guide the drafting of the next generation of Australian environmental law, regarding, for example:

- ‘smart regulation’ (including using a complementary combination of regulatory instruments and harnessing a broad range of environmental actors as surrogate regulators);
- the use of economic instruments;
- regulatory tools such as impact assessment (including environmental, health and social impact assessment at both a strategic and project level, and the assessment of cumulative impacts);
- procedural aspects of environmental democracy;
- flexible and responsive environmental governance (including continuous improvement);
- landscape-scale ecological restoration; and
- non-regression (that is, there should be no reduction in the level of environmental protection provided by the law).



### Idea 3: Directing principles to guide decision-making

Directing principles specifying matters that must be considered when making decisions and policies under environmental legislation should be prescribed in the next generation of environmental laws; in particular:

- the precautionary principle (together with provision for public engagement concerning when potential risk or harm is acceptable);
- the prevention (of harm) principle; and
- two new principles concerning environmentally sustainable innovation:
  - a principle of achieving a high level of environment protection; and
  - a principle of applying Best Available Techniques.

In order for directing principles to operate as firm rules, rather than simply ‘relevant considerations’ that must be taken into account but can then be given little

weight in reaching a decision, we believe that strong statutory language is required. For example, the next generation of environmental law could require that these principles ‘must be applied as a first priority’ by decision-makers. For this reason, we do not think it appropriate to continue the current, widespread practice of setting out directing principles in the objects clauses of environmental legislation, where they operate merely as ‘relevant considerations’.

## 2.3 Environmental duties

### Idea 4: General environmental duties

Legal norms in the form of general environmental duties should be imposed on all legal persons by the next generation of environmental laws, in particular to:

- **take care to** prevent or minimise environmental harm likely to arise from their activities; and
- **repair** environmental harm they have caused and restore ecological functions they have impaired (to the greatest extent practicable).

Toolangi Gun Barrel Coupe, Victoria





Loy Yang A coal-fired power station, Latrobe Valley, Victoria



‘Legal persons’ means that both of these forms of general environmental duty should apply to individuals, corporations and other legal business entities and all levels of government. The general duty to repair and restore damaged environments would reach beyond the current requirements to rehabilitate particular places, such as former mines or contaminated sites, in order to require restoration of ecological systems at a landscape scale. Restoration of ecological functions does not mean returning the environment to an historical pristine condition. Rather, it would focus on rebuilding healthy and productive ecosystems in order to maximise their potential functional benefits to both people and biodiversity. Restoration can also help Australia to prepare for climate change, for example by sequestering carbon dioxide through afforestation and restoring habitat linkages for displaced wildlife.

## 2.4 Environmental rights based on environmental democracy

### Idea 5: Substantive and procedural rights

Environmental norms in the form of substantive and procedural rights based on the concept of environmental democracy should be a core component of the next generation of environmental law. These should include:

- a substantive right to a safe, clean and healthy environment; and
- procedural environmental rights (including the right to information, to public participation and to access to justice in environmental matters).

The next generation of environmental laws will need to recognise explicitly the role of humanity as a trustee of the environment and its common resources, requiring both care and engagement on behalf of future generations. This is the premise upon which all action and conduct affecting the environment should proceed and is reflected in the concept of environmental democracy.

A cornerstone of environmental democracy should be an underpinning, substantive safeguard. In our view, this safeguard should take the form of **an enforceable right to a safe, clean and healthy environment**.

In the absence of a constitutional framework for the prescription of such a right, we believe it should be a statutory right that is incorporated in the next generation of environmental legislation at both the Commonwealth and State and Territory levels.

We note also the emerging interest globally in the concept of ‘rights for nature’, which it is argued avoids the anthropocentric focus of the right to a safe, clean and healthy environment. The means by which such rights could be given legal effect remain uncertain. We support further consideration of this concept, in particular the legal frameworks that might enable its recognition in Australia.

Environmental democracy also requires the proactive, direct engagement of the community. The next generation of environmental law will need to raise to a new level collaborative, democratic governance of the environment. Environmental democracy builds on respect for fundamental human rights, including the rule of law, by requiring the active engagement of informed communities as a cornerstone of good environmental governance. This can only occur through strong procedural protections and guarantees, in particular:

- expansive rights to environmental information;
- strengthened public participation in decision-making; and
- accessible means of achieving justice and remedying failures.

As discussed in sections 1.3 and 3.3.2, community engagement also involves bringing the interests and voices of Indigenous Australians within the frameworks and procedures of environmental decision-making, independently of other voices.

Finally, with respect to access to justice, we note that implementation of this procedural right will be facilitated by the establishment of environmental courts at both the State and Territory (where such courts currently do not exist) and Commonwealth levels (in the latter instance, through a specialist panel of the Federal Court) and the provision of adequate funding to community legal centres.

## 2.5 Establishing the foundations of environmental law

The foundations of the next generation of environmental law are summarised in Table 1 below. We envisage that the Commonwealth will lead by providing for these elements to be included in its next generation of environmental law and by encouraging similar action by the States and Territories through the mechanisms that are described in the next section of this paper.

**Table 1: SUMMARY OF THE FOUNDATIONS OF ENVIRONMENTAL LAW**

<p><b>Societal goal</b></p> <p>A fundamental goal for all environmental laws should be based on an overarching societal goal in relation to environment and development that is the result of a process of consultation and consensus building. This process would involve a reflection on the existing goal of ecologically sustainable development, the UN Sustainable Development Goals and emerging, broader sustainability-based approaches.</p>	
<p><b>Objectives of environmental law</b></p> <p>Next generation laws should include concise and specific objectives that are designed to elaborate the broader societal goal and also include a limited number of additional objectives that are fundamental to the specific subject-matter of the legislation. Objects clauses should not extend to the prescription of directing principles.</p>	
<p><b>Design principles</b></p> <p>When designing future Australian environmental laws, law makers should design laws consistent with principles promoting:</p> <ul style="list-style-type: none"> <li>• ‘smart regulation’ (e.g. using complementary regulatory instruments and a broader range of environmental actors as regulators);</li> <li>• particular economic instruments and measures, for example, that polluters pay for their environmental impacts;</li> <li>• particular tools or mechanisms for environmental management (for example, impact assessment – including environmental, social, health, project and strategic, and also assessment of cumulative impacts);</li> <li>• environmental democracy such as access to environmental information, public participation and access to justice;</li> <li>• responsive and flexible environmental governance;</li> <li>• ecological restoration at a landscape scale; and</li> <li>• non-regression (that is, there should be no reduction in the level of environmental protection provided by the law).</li> </ul>	<p><b>Directing principles</b></p> <p>The next generation of environmental laws should prescribe directing or rules-based principles that are required to be applied as a first priority by decision-makers, as follows:</p> <ul style="list-style-type: none"> <li>• the precautionary principle;</li> <li>• the prevention principle; and</li> <li>• principles for environmentally sustainable innovation: <ul style="list-style-type: none"> <li>- a high level of environmental protection principle; and</li> <li>- a Best Available Techniques principle.</li> </ul> </li> </ul>
<p><b>Environmental rights</b></p> <p>Legal norms in the form of substantive and procedural rights that give effect to the concept of environmental democracy should be a core component of the next generation of environmental law. These should include:</p> <ul style="list-style-type: none"> <li>• a substantive right to a safe, clean and healthy environment; and</li> <li>• procedural environmental rights (including the right to information, to public participation and to access to justice in environmental matters).</li> </ul>	<p><b>Environmental duties</b></p> <p>Individuals, the private sector and governments should be subject to two important general environmental duties in the next generation of environmental law:</p> <ul style="list-style-type: none"> <li>• a duty of care to avoid causing environmental harm; and</li> <li>• a duty on responsible parties to repair environmental damage and restore impaired ecosystems and landscapes to the greatest extent practicable.</li> </ul>



### 3. ENVIRONMENTAL GOVERNANCE

APEEL considers that a fundamental objective of the next generation of environmental law must be to deliver good environmental governance. We have adopted a broad view of the concept of environmental governance that assumes different roles for governments, business and civil society, and promotes new forms of regulation that embody characteristics such as flexibility, participation, collaboration and adaptation. We refer to this as ‘collaborative environmental governance’.

Our ideas to promote sound, collaborative environmental governance fall into four specific categories:

1. the need for strategic national leadership by the Commonwealth on environmental matters;
2. the need for new Commonwealth institutions to deliver national leadership;
3. the role of other actors, in particular the private sector, civil society and Indigenous communities; and
4. measures to ensure the effectiveness of the next generation of environmental law in Australia.

#### 3.1 National strategic leadership on the environment

APEEL believes that the Commonwealth should assume responsibility for providing national strategic leadership on the environment. This simple proposition is based on a range of considerations that we shall summarise before setting out our specific ideas as to how it should be pursued.

First, APEEL has reviewed the **constitutional capacity of the Commonwealth** to legislate on environmental matters and to expend funds for environmental purposes, in order to assess its capacity to deliver national strategic leadership. We have reached a conclusion (which is shared by a large majority of legal experts) that the Commonwealth has an extensive capacity in both aspects, despite some technical limitations. Furthermore, we consider the Commonwealth could override (or ‘pre-empt’) State and Territory environmental laws if it wishes, making use of section 109 of the Australian Constitution. This provides a substantial lever to the Commonwealth in terms of seeking State and Territory cooperation for the implementation of national strategies on the environment.

The Brown Mountain forests, East Gippsland, Victoria





Carpet python feeding, WA

Second, despite the previous conclusions, we do not propose a wholesale replacement of State and Territory environmental laws or functions by the Commonwealth. While we urge national strategic leadership by the Commonwealth on environmental matters, we recognise that **the States and Territories should continue their traditional role in environmental regulation and the management of natural and cultural resources** under State and Territory legislation. However, we believe that this should be conditional upon State and Territory laws and administrative arrangements being adapted to, and capable of, implementing national and regional environmental strategies developed by the Commonwealth. It is only where State and Territory laws and related administrative arrangements are clearly inadequate for this purpose that there would need to be a consideration by the Commonwealth of whether to override, or pre-empt, State and Territory environmental laws.

Third, in advancing the idea of national strategic leadership on the environment by the Commonwealth, APEEL has undertaken an extensive examination of **the current system of 'cooperative' environmental federalism**. We have concluded that this system is failing to deliver adequate environmental outcomes and, in particular, that it is extremely slow moving and prone to undesirable compromises. We have therefore proposed new mechanisms by which leadership of a strategic nature would be provided more efficiently and effectively by the Commonwealth in relation to the environment.

Finally, in addition to the failings of cooperative environmental federalism, APEEL believes there are two additional considerations that reinforce the need for strong, strategic leadership on the environment by the Commonwealth:

1. there are extensive **international obligations** that have been assumed by Australia through it having signed multiple treaties which address a wide range of environmental matters. The ratification of these treaties and the honouring of their consequential obligations within a reasonable time period requires a capacity for the Commonwealth to develop and influence the implementation of appropriate measures across all jurisdictions; and
2. we consider the argument for Commonwealth strategic leadership on environmental matters is equally as strong as the arguments which have prevailed historically in support of **Commonwealth leadership with respect to a range of economic policy areas** such as taxation, corporate regulation, consumer protection, regulation of the financial sector and industrial relations. In each of these contexts, the Commonwealth has adopted legislation to establish the institutions through which a nationally consistent approach can be pursued. We believe that the dire nature of the threats facing Australia with respect to the loss of biodiversity, both terrestrial and marine, and from climate change, and the consequential economic and social impacts, are sufficient justification for the Commonwealth to provide similar national leadership regarding the environment. We are reinforced in this view by the evidence from a range of national surveys that indicate that there is strong support across the Australian populace for such leadership by the Commonwealth.

With these considerations in mind, we set out the following ideas with respect to how the Commonwealth can provide national strategic leadership on the environment.



### Idea 6: Strategic environmental leadership

The Commonwealth should provide strategic leadership on the environment by the following means:

- the Commonwealth should produce a **Declaration of Commonwealth Environmental Interests** that defines both the environmental matters in which it has an interest and the strategic and regulatory functions related to the environment that it intends to perform;
- the Declaration of Commonwealth Environmental Interests and consequential Commonwealth environmental legislation should empower the proposed Commonwealth Environment Commission (see Idea 7) to develop and adopt **Commonwealth Strategic Environmental Instruments (CSEIs)**;
- CSEIs should be composed of **national environmental measures** in the form of strategies, programs, standards and protocols and **regional environmental plans** comprising terrestrial, landscape-scale bio-regional plans and marine bio-regional plans (see also Idea 13);
- new Commonwealth environmental legislation should include provision for oversight by the Federal Court of Australia and the Australian National Audit Office of the requirement that the proposed Commonwealth Environment Commission develop and adopt CSEIs;
- where CSEIs have been developed and adopted by the Commonwealth Environment Commission, their implementation by the States and Territories and the Commonwealth should be secured at first instance through **implementation**

**plans** prepared by the relevant State and Commonwealth authorities and approved by the Commission;

- to encourage the development of implementation plans and their subsequent delivery by the States and Territories, Commonwealth environmental legislation should provide:
  - an incentive in the form of arrangements for direct financial assistance to the States and Territories; and
  - a sanction in the form of provision for conditional pre-emption of State and Territory laws by Commonwealth regulations made, where necessary, for this purpose.

The scheme proposed here for Commonwealth strategic leadership on the environment involves new mechanisms in the form of:

1. instruments prepared and adopted by a new Commonwealth Environment Commission; and
2. implementation plans in relation to each instrument developed by the States and Territories and affected Commonwealth agencies.

This is a significant departure from the established cooperative federalism arrangements for the development of consensus-based instruments by the Commonwealth and the States and Territories, which has proved to be slow moving and prone to compromise.

It is critical to the success of this scheme that there are financial incentives to ensure the development and delivery of implementation plans. However, we believe it is also necessary for there to be a strong disincentive in the form of the possibility of Commonwealth pre-emption of particular laws of the States and Territories where implementation of Commonwealth instruments is lagging. Experience in other jurisdictions such as the United States indicates that the mere possibility of such action induces a negotiation process that usually avoids it having to be taken.

“The argument for Commonwealth strategic leadership on environmental matters is equally as strong as the arguments with respect to a range of economic policy areas such as taxation, corporate regulation, consumer protection, regulation of the financial sector and industrial relations.”

### 3.2 Commonwealth environmental institutions

#### Idea 7: Commonwealth environmental institutions

Responsibility for the implementation of the next generation of environmental law at the Commonwealth level should be vested in two independent statutory authorities, as follows:

- a Commonwealth Environment Commission (see also Idea 6 above) whose responsibilities would include:
  - the development and adoption of CSEIs;
  - the examination and approval of implementation plans prepared by State and Commonwealth authorities in relation to each CSEI adopted by the Commonwealth Environment Commission; and
  - advice and recommendations to the Commonwealth Environment Minister on the provision of direct financial assistance to the States and Territories, and/or the making of regulations to pre-empt the operation of State laws where this is considered necessary to secure the implementation of a CSEI.(see also Idea 12 regarding environmental data collection, monitoring, auditing and reporting)
- a Commonwealth Environment Protection Authority whose responsibilities would include:
  - administration of the Commonwealth's system of environmental assessment and approvals;
  - other environmental regulatory functions currently exercised across a range of different Commonwealth agencies and authorities; and
  - environmental regulation of activities undertaken by Commonwealth authorities or by other parties on Commonwealth land.

In order to ensure that our proposed system of Commonwealth strategic leadership on the environment operates effectively, APEEL believes that there should be a high-level, independent statutory authority – the new Commonwealth Environment Commission proposed above. The Commission should have a similar status to the Reserve Bank Board and be composed of similarly prestigious appointees. In addition, we see a clear need for a separate Commonwealth Environment Protection Authority to perform a range of Commonwealth regulatory functions currently dispersed across various agencies and authorities. The Commonwealth Environment Protection Authority would also fill a serious gap in current arrangements for the regulation of activities undertaken by Commonwealth authorities or by other parties on Commonwealth land.

Both of these institutions would be independent statutory authorities free from political or other influence in order to engender public confidence and a sense of impartiality in their operations. These are qualities that we believe are absent from the current arrangements involving implementation of environmental legislation by a Minister and Department.

We also propose the establishment of a special section within the Australian National Audit Office to monitor and report on the performance of the Commonwealth Environment Protection Authority and other Commonwealth agencies, including the Department of Environment, and to provide recommendations to the Commonwealth Environment Commission on the need for new CSEIs (see Idea 10 below).

The giant swamp orchid, one of the world's most endangered plants





“ We believe that caring for the environment is a shared responsibility of all Australians. The business community in particular has a valuable role to play in this regard.... ”

### 3.3 The role of other actors

#### 3.3.1 The private sector

##### **Idea 8: The private sector**

Law reform to facilitate private sector innovation and leadership in collaborative environmental governance should:

- introduce a general duty under corporations law for companies to:
  - report on their environmental performance; and
  - adopt environmental management systems and procedures that will facilitate ongoing improvements in their environmental performance;
- reform the income, business and property tax systems to reward environmentally beneficial practices, such as in land management and pollution control;
- redefine the fiduciary and trust law responsibilities of financial investors, such as superannuation funds and banks, to require them to consider and manage long-term environmental risks to their investment portfolios, such as from climate change and loss of biological diversity;
- require the Commonwealth's Future Fund and other Crown financial organisations to demonstrate best practice by taking into account financially material environmental risks and by investing in sustainable development; and
- allow the establishment of corporate 'hybrid' enterprises that blend profit-maximisation and community benefit goals.

We believe that caring for the environment is a shared responsibility of all Australians. The business community in particular has a valuable role to play in this regard, both as a major user of natural resources and as a source of technological innovation and financial resources to address our environmental challenges. While major corporations will often have a larger share of responsibility, all businesses, including cooperatives and partnerships, should have a role in helping Australia shift to an ecologically sustainable economy.

In addition to voluntary initiatives by the business community undertaken in the name of 'corporate social responsibility' (such as compliance with voluntary codes developed by the private sector), a variety of legal reforms can help incentivise and support the private sector in managing its environmental activities. These reforms involve laws governing the private sector that are separate and quite distinct from environmental laws, for example concerning corporations, taxation and financial investment.

We suggest that the duty to report on environmental performance should cover matters such as the use of natural resources, ecological impacts of activities and compliance with environmental regulation. Because of the costs and expertise required to make meaningful disclosures, a duty to report on environmental performance should be confined, at least initially, to large public and private corporations, as determined by criteria such as economic sector, annual turnover and staffing levels.

#### 3.3.2 Civil society

We have already indicated in section 2.4 our support for rights-based measures that will promote shared, democratic environmental governance by facilitating the engagement of informed communities within civil society. Civil society organisations have crucial functions as actors within the collaborative environmental governance system. Broad rights to participate in decision-making, and resources and practical measures that enable an informed and engaged citizenry, are required in order that our common 'trusteeship' obligations for the environment can be exercised by civil society equally with government and the private sector.

### 3.3.3 Indigenous Australians

#### **Idea 9: Indigenous Australians**

The interests and voices of Australia's Indigenous peoples should be included in the making and implementation of environmental policy, programs, plans and decisions, including through:

- more effective engagement by Commonwealth, State and Territory governments with Indigenous communities in strategic planning for terrestrial and marine governance (see also Idea 13);
- the adoption of culturally appropriate governance models for Indigenous managed areas and co-managed areas (see also Idea 13); and
- the prescription of procedures and practices, and the provision of appropriate resources to Indigenous community representatives, to ensure the effective functioning of the principle of free, prior and informed consent in relation to matters concerning their connection to land, water and other resources.

We have noted in sections 1.2 and 2.4 the need to include the interests and voices of Indigenous Australians in decision-making, independently of other voices. This is an important element of the system of collaborative environmental governance that we advocate, especially given that many environmentally sensitive places fall under Indigenous Australians' law, custom and custodianship. The Ideas presented above offer specific means to accomplish such inclusion.

## 3.4 Making environmental law effective

### 3.4.1 Integrity and accountability

#### **Idea 10: Integrity and accountability**

A special department should be established within the Australian National Audit Office to monitor and report on the performance of Commonwealth environmental agencies, including the Commonwealth Environment Protection Authority and the Department of Environment and Energy, and to advise the Commonwealth Environment Commission on the need for new CSEIs.

APEEL recognises that the next generation of environmental law in Australia requires new and distinctive arrangements for implementation and enforcement. Too often in the past, environmental laws have failed to deliver effective outcomes. We believe that for better laws to produce better outcomes, new mechanisms are needed to ensure the integrity of their implementation. These mechanisms should enable transparent evaluation and reporting on whether the laws and other instruments are working effectively.

We propose the establishment at the Commonwealth level of a special section within the Australian National Audit Office to monitor and report regularly on the performance by the Commonwealth Environment Protection Authority and other Commonwealth agencies, including the Department of Environment, and to provide recommendations to the Commonwealth Environment Commission on the need for new CSEIs (see section 3.2 above). Similar arrangements are equally desirable at the State and Territory level.

One particular function of this auditing mechanism should be to monitor legislative and regulatory action

“The interests and voices of Australia's Indigenous peoples should be included in the making and implementation of environmental policy, programs, plans and decisions”





Open cut coal mine, Hunter Valley NSW

to identify and report upon initiatives that appear to contravene the design principle of non-regression or, in other words, that there should be no reduction in the level of environmental protection provided by the law. This type of national accountability, coupled with a commitment to both non-regression and continuous improvement, is essential to ensure that Australians have the benefit of an environmental law system with demonstrable integrity.

Such integrity and accountability measures should be accompanied by a commitment to ensuring that laws are effectively implemented where audits suggest this is not the case. This is as much a political as a legal matter, as laws can only go so far in providing for effective oversight of their implementation. The political will to adapt and improve also is necessary.

We have suggested elsewhere in this paper other legal measures and mechanisms to promote effective implementation of the next generation of environmental laws, in particular:

- in section 2.4, we propose rights-based measures to promote effective citizen involvement; and
- in section 3.1, we propose oversight measures to ensure the assumption of a strategic leadership role by the Commonwealth in the future.

### 3.4.2 Resources

#### Idea 11: Resources

The Commonwealth should develop a National Environmental Investment Plan that will address the fundamental challenge of effectively resourcing environmental management in Australia by identifying strategies to generate increased private and public sector funding. Resources generated through this Plan could be invested in an Environment Future Fund managed by the Commonwealth that could, for example, be deployed to assist the implementation of CSEIs or ecological restoration.





The effective implementation of environmental laws depends substantially on the provision of both financial and human resources beyond the levels currently allocated for this purpose in Australia. New funding models are required to support the operation of the next generation of environmental laws for Australia. These should be developed through a National Environmental Investment Plan developed by the Commonwealth.

### 3.5 Environmental data collection, monitoring, evaluation and reporting

#### Idea 12: Environmental data

The Commonwealth Environment Commission should be responsible under its enabling legislation for the development of a nationally coordinated approach to environmental data collection, monitoring, evaluation and reporting.

A significant obstacle to effective environmental and natural resources management in Australia is the lack of adequate scientific, baseline data. Nationally consistent and better-funded data collection, monitoring, evaluation and reporting are needed. We note that this action has been called for in National State of the Environment Reports since the mid-1990s, and that to do so would substantially enhance the quality and value of these reports.

In advancing this idea, we wish to distinguish the tasks involved from two other forms of evaluation and reporting which serve other, different purposes:

1. the preparation of national environmental accounts, particularly through the application of indicators other than the current economically driven paradigm of Gross Domestic Product (for example, based on the Genuine Progress Index); and
2. environmental auditing of government performance concerning the environment (for example by the means discussed above in 3.4.1).



## 4 SPECIFIC ASPECTS OF ENVIRONMENTAL LAW

### 4.1 Conserving nature (terrestrial and marine)

#### **Idea 13: Conserving nature (terrestrial and marine)**

To ensure efficient and effective natural resource governance, the Commonwealth should establish a system of cross-sectoral, ecosystem-based planning and management in terrestrial, marine and coastal areas ('bio-regional planning'). This system of bio-regional planning would:

- be based on Plans developed by the Commonwealth as regional CSEIs (see Idea 6 above);
- involve a process that engages deeply with stakeholder groups, including Indigenous groups and native title or sea-country rights holders; and
- set clearly defined objectives, priorities and measurable outcomes for ongoing monitoring of implementation and environmental trends.

We have sought to underpin our recommendation for enhanced bioregional planning in the terrestrial context by a discussion in Technical Paper 3 of the role that law plays, and could play, in the management of nature, water resources and invasive species. This discussion provides a window into the law relating to land use, nature conservation and natural resources management more generally, most of which is addressed at a State and Territory level. However, we have not sought to fully cover these particular areas of environmental law; our focus has been instead on the potential role of the Commonwealth in promoting a comprehensive system of bio-regional planning in both the terrestrial and marine contexts.

To date, the task of planning for and managing the interactions between a range of existing and potential land uses across the Australian landscape has been left largely to the States and Territories. The Commonwealth has essentially limited itself to regulating development proposals that have a significant impact on a limited range of Matters of National Environmental Significance. While it has been active in preparing marine bio-regional plans,

these do not provide for cross-sectoral planning and only cover waters within the Commonwealth's jurisdiction. The long-discussed goal of integrated management in the marine and coastal environment has now become critical and urgent.

A bio-regional planning approach would provide greater certainty for resource users as well as for conservation, while ensuring integrated management. Plans would not only be concerned with conserving nature but also with reconciling competing development demands, for example, between agriculture and mining, oil and gas development, fisheries and tourism. These plans would provide clearer guidance to those carrying out these economic activities, thereby reducing approval complexities. They also would serve to reduce isolated governance units at Commonwealth, State and Territory levels.

Bio-regional plans also would identify areas needed for effective completion of the National Reserve System and the National Representative System of Marine Protected Areas, as well as, for example, those areas to be made available for forestry, mining and urban development. State and Territory managers would be required to implement management plans for reserves, Ramsar sites and World Heritage Areas. Culturally appropriate governance models for Indigenous Protected Areas and co-managed areas would need to be developed.

Plans would also address nature conservation issues outside the reserve system. They would require States and Territories to provide for conservation connectivity across the landscape, including buffers around reserves and climate change refugia. They would integrate existing conservation plans for land outside the reserve system (for example, recovery and threat abatement plans) with development plans, such as local government planning schemes. They would ensure that conflicts between the conservation of habitat for threatened species and development for residential and other purposes could be addressed in a coordinated manner. They would identify opportunities for synergies, for example between nature conservation and carbon sequestration, or in preparing coastal areas for climate change impacts.

Bio-regional planning also offers a viable response to the management of cumulative impacts – the silent and pervasive creep of individual developments that ultimately reaches a tipping point not foreseen during the remorseless grind of granting individual approvals.

Environmentally, bio-regional plans would help to identify contexts where development control by States and Territories is needed to achieve targets identified in such plans. However, bio-regional plans would also indicate where government and private investment is needed, for example to persuade land managers to modify existing activities through conservation agreements or to carry out active management to restore ecosystems.



Brown Hill Range, SA, wind turbines at sunrise

As outlined in section 2.1 above, we envisage that the system of bio-regional planning would be established by the Commonwealth Environment Commission through the development of plans that would constitute regional CSEIs. This means that implementation plans would need to be developed by affected States and Territories with respect to each bio-regional plan adopted by the Commonwealth Environment Commission.

## 4.2 Climate change and clean energy

### Idea 14: Climate change and clean energy

The next generation of environmental laws will need to provide for a comprehensive national response to climate change. This should include:

- the imposition of a price on carbon;
- ambitious emissions reduction targets seeking progressive reductions in emissions up to 2050 when emissions should be close to zero or below zero;
- the removal of fossil fuel subsidies;
- the provision of incentives for renewable energy and low-carbon initiatives; and
- an extended role for the Clean Energy Finance Corporation.

Climate science provides compelling reasons for transitioning to a low-carbon economy and for doing so

in the shortest possible time. Since the energy system accounts for some two-thirds of carbon emissions, we must urgently transition to sustainable energy sources. The obstacles to achieving this are primarily political rather than regulatory, with the major parties (at least between 2009 and 2017) unable to agree on an appropriate policy response. The result has been rapidly rising energy prices, stalled investment and little progress on curbing carbon emissions.

The most efficient and effective means of incentivising major carbon emitters to reduce their emissions is to **impose a price on carbon**. While a carbon tax could achieve this, it is politically toxic and we believe that an emissions trading scheme, as proposed by the Garnaut Review in 2008, is the best alternative. The latter is preferable to an emissions intensity scheme (which will not reduce emissions as much as a cap and trade system) or to a Clean Energy Target of the kind contemplated by the 2017 Finkel Report (which will not incentivise a rapid phase-out of coal-fired power). Crucially, the carbon price needs to be high enough to achieve rapid reductions to meet, and ultimately to go beyond, Australia's modest commitments under the 2015 Paris Climate Agreement. Effective administration and enforcement of carbon trading is also essential.

A number of complementary measures are also important, including:

- the removal of fossil fuel subsidies (which greatly exceed support for renewables);
- an ambitious and certain Renewable Energy Target (which modelling suggests will lower wholesale Australian electricity prices); and
- an extended role for the Clean Energy Finance Corporation.



## 5 CONCLUSIONS

The ideas for the next generation of environmental law in Australia that we have presented in this paper are the culmination of some two and a half years of effort by the fourteen members of APEEL and its eight Expert Advisers. For those who wish to pursue a fuller understanding of the thinking behind each idea and how it would work in practice, we suggest referring back to the particular APEEL Technical Paper from which the particular idea has emerged.

Our approach has been to focus on the broad features of the environmental law system that we advocate for the future, rather than to delve into its many, specific components. Where we have examined particular aspects of environmental law, we have chosen those that we believe have a fundamental, ecosystem-wide relevance such as biodiversity protection and climate change. For these particular topics, we have endeavoured to identify reforms of a strategic nature that we think are an essential precursor to addressing particular environmental problems effectively. In our view, a program of environmental law reform directed to implementing the broad framework outlined here and in the APEEL Technical Papers can provide a legal and policy basis for arresting and reversing the serious environmental challenges we face today.

We understand the challenges involved in securing the delivery of the agenda for environmental law reform that we have outlined. We do not underestimate the difficulties that some of our ideas will face in gaining both community and political acceptance. Nevertheless, we have set our sights on the next generation, not the next electoral cycle, and appreciate that some of our more advanced or forward-thinking ideas will take longer than others to be adopted. Nor do we believe that environmental law by itself can deliver a truly sustainable society and supporting ecological infrastructure. However, we regard a sound system of environmental law as an indispensable part of the wider approach that is needed.

Over the next six to twelve months APEEL will seek to promote understanding of its ideas within the academic and professional circles from which its members come. We will leave it to others, in particular the Places You Love Alliance (which has provided generous logistical support for this pro bono project) to pursue advocacy for major environmental law reform that draws upon our ideas. This will likely involve both the building of a constituency in support of such reform within the community and among key stakeholders, and efforts to generate support within political and bureaucratic circles across Australia. Ultimately, we hope to see our ideas reflected in new environmental legislation at both the Commonwealth and State and Territory levels in the years to come.

Policeman's Point, Coorong





