
Submission to the
Federal
Government's
Back Bench
Environment
Committee

**Requested Changes to the
Environment Protection and
Biodiversity Act. (EPBC)**

Mountain Cattlemen's
Association of Victoria

Submission to the Federal Government's Back Bench Committee on the Environment.

March 2015

REQUESTED CHANGES TO THE ENVIRONMENT PROTECTION AND BIODIVERSITY ACT. (EPBC)

In 2011, the Mountain Cattlemen were the target of political bastardry by the former Labor Government which used the EPBC Act to cancel Alpine grazing trials in order to achieve political benefit. This degraded the intent of that Act.

On election in 2014, the new Victorian Labor Government cancelled year two and three of another grazing trial in the Wonnangatta valley for similar political benefits.

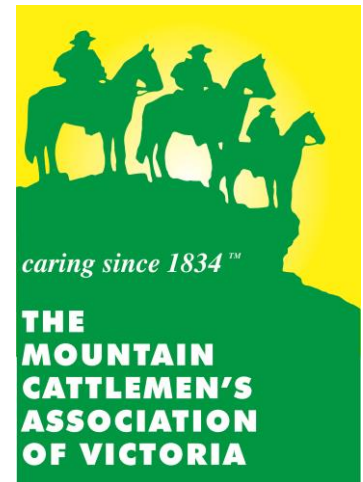
This has meant that the Cattlemen's history, heritage and culture which dates back to 1834 and which should be protected under the EPBC Act, is now under serious threat.

To expand the Commonwealth issue, the former Minister for the Environment, Tony Burke used the EPBC Act and the powers invested in him, to prevent the former Victorian Government continuing six grazing trials in 2011 and to change the regulations surrounding the trials. In that process some flaws in the EPBC Act and regulations became evident. These included the official interpretation of heritage and culture. This meant that the effects on *living* culture and heritage are not considered in EPBC decisions. The MCAV submits living heritage and culture should be required to be considered in EPBC decisions.

Australia's definition of heritage and culture should be strengthened.

The Federal Department of the Environment, which administers the EPBC Act and its regulations on behalf of the Minister, relies heavily on the term 'heritage' to discharge its responsibilities. Definitions and departmental interpretations of heritage however, only appear to recognise built structures and gathering areas.

In some decisions the Department and past Governments have used their interpretation of the word heritage to make convenient politically motivated decisions under the guise of 'protecting the heritage and the environment ' which has the effect of threatening the preservation of *living* heritage and culture.



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ANOTHER FLAW IN THE EPBC PROCESS.

The EPBC process does not allow any application under the Act to include listing the *benefits* of the application: *Only* the adverse environmental ‘Impacts’ of an application are required to be specified. The disallowing of any reference to possible benefits of a proposal, prejudices the likelihood of a positive determination being made. This peculiar requirement removes the balance which should be part of the consideration of any proposal and loads the scales against any approval even before the decision-making process begins.

Under this process, Victoria’s State Government EPBC application to conduct grazing trials could not list the benefits of fuel reduction in the Alpine National Park or argue that the trials would ensure that the Heritage and Culture of the Mountain Cattlemen could continue to be preserved. It only could list the potential impacts of the grazing trial proposal.

An Example:

Alpine Grazing in the Alpine National Parks and Reserves defined in Regulations as an “Action”.

On 19 October 2011 the regulations to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) were amended to include the grazing of domestic stock within the Alpine National Park and Reserves as an action – which then required approval under the EPBC Act.

The regulation specifies that grazing of domestic stock, including cattle, would impact on the heritage values of the Australian Alps Heritage Area. Future or new grazing activities proposed within the Australian Alps Heritage Area, including the Alpine National Park, will need to be assessed under the EPBC Act. This regulation contradicts itself because the MCAV submits that it is obvious that the grazing of stock and associated activities such as droving are heritage actions.

In many documents relating to the Australian Alps, the heritage of the Mountain Cattlemen and the practice of alpine grazing are mentioned as being **central** to the heritage, yet the very word heritage is being used in other contexts to prevent living heritage practices to continue.

This loophole highlights the need to strengthen and clarify interpretation of the word heritage to ensure that it’s not possible for it to be used as a political weapon under the EPBC Act and regulations, as it has in the past.

As part of the EPBC process, the protection of living heritage and culture needs to be given equal weight in all decisions to protect the environment with a view to achieving a balanced and sensible outcome.

THE WORD HERITAGE IS OPEN TO INTERPRETATION.

Examples of the problem:

1. A Strategy for Australia's Heritage

On 14 April 2014, the Hon Greg Hunt MP, Minister for the Environment launched the draft Australian Heritage Strategy. The draft Strategy is described as being 'built around a central vision of our natural and cultural heritage being valued by all Australians, protected for future generations and cared for by the community.'

As a wide ranging strategy to preserve Australia's heritage this document is commendable. Under the heading: "What is heritage?" page 12 however, the definition of heritage is:

"Heritage can be simply defined as the special places or things"

This is an example of how the word 'heritage' has never been fully defined and on reading the document carefully it is clear that how to properly recognise and foster living heritage and culture, is all but ignored. This omission can easily be rectified. To assist, the MCAV submitted a paper identifying the need to recognize living heritage in the Strategy for Australian Heritage process. There has been no response to that submission. We include that submission.

2. In the summer of 2014, the Federal Department of the Environment strongly resisted the request by the Mountain Cattlemen and the Victorian Government to drive a small mob of cattle down an historic and original stock route called Dry River Track from Howitt Plains to Wonnangatta. This was requested as it was the shortest and original and traditional droving route to the approved trial site in the valley.

This track was created by Mountain Cattlemen more than 150 years ago and is an original stock route. It now forms part of the Bi Centennial Horse Trail – and is infrequently used. Almost no walkers use that route due to its challenging nature. It is a difficult route because it is almost overgrown since cattle were removed from that section of the Park in 1988. It is very hard to find unless you know where it is.

The argument mounted by the Department was that droving cattle down this historic droving track with horses and dogs as was done for 100 years, would compromise the heritage values of the track!

We submit that with this example, the heritage values of the track can only be enhanced by preserving living heritage values and these should have been given more weight. We submit because the definitions of heritage relied on by the Federal Department omit legal responsibility to consider living or working heritage, it allows such unreasonable interpretations to occur.

For the record, the cattle did use the track (after much negotiation.) This enabled a continuation of the living heritage of that droving stock route and was very significant to the Mountain Cattlemen and the heritage of the High Country. The Federal Department however, insisted that a work team followed the cattle to pick up the manure and take it out of the Park, but the team were not required to collect the horse manure. This example succinctly explains what we are saying about the process and interpretations of the Federal Department. At no time was there any threat to the Environment when using this track.

WHY DOES THE LIVING HERITAGE AND CULTURE OF MOUNTAIN CATTLEMEN MATTER?

The glue that has held this group together is a profound and intergenerational commitment to the High Country and a compelling devotion to its welfare. For 180 years the Mountain Cattlemen have honed their craft through the hands-on experience that only working and living in an environment can provide. No other group today possesses such detailed and pervasive knowledge of the High Country. It has always been the culture of the Cattlemen to share this knowledge and the country itself with all comers. The Mountain Cattlemen's heritage and culture is inextricably connected to the practice of alpine grazing; they cannot survive as a group or as a culture if alpine grazing is extinguished. The wanton destruction of this culture for partisan political reasons robs Australia of a unique link between its pioneering past and its cosmopolitan future. And sadly, the High Country itself, denied the management benefits that could flow from the Cattlemen's contribution and experience, would be condemned to continue on its present course of well-intentioned but wildly misguided decline.

The intergenerational knowledge, or traditional ecological knowledge (TEK), held by the Cattlemen about the Victorian High Country is on the verge of being lost forever. In that process the heritage and culture of these families which belongs to all Australians will also be lost.

Traditional Ecological Knowledge. (TEK)

TEK is a term used internationally since the 1980's. Australia however, is disregarding what is happening in this area overseas.

Why is the Federal Department of the Environment ignoring International norms?

The definition of TEK according to natural resource use scholar Bikret Ferkes, is defined as,

"...a cumulative body of knowledge, practice, and belief, evolving by adaptive processes and handed down through generations by cultural transmission, about the relationship of living beings (including humans) with one another and with their environment." (National Geographic, [Voices for Biodiversity](#) on April 5, 2012)

"Traditional Ecological Knowledge (TEK): An accumulated body of knowledge that is rooted in the spiritual health, culture, and experiences of those who are close to the lands. It is based on an intimate knowledge of the land, its physiographic and natural features, climate, and wildlife, and the relationships between all aspects of the environment. Although in many uses it refers to knowledge of Indigenous peoples, others with intimate knowledge and experience of the land also have developed traditional ecological knowledge. (FSC Canada 2004:144)

Berkes describes how TEK is useful as a co-management tool.

Traditional knowledge, as a way of knowing, is similar to Western science in that it is based on an accumulation of observations, but it is different from science in some fundamental ways. The anthropologist Claude Levi-Strauss (1962:269) argued that these two ways of knowing are two parallel modes of acquiring knowledge about the universe; the two sciences were fundamentally distinct in that "the physical world is approached from opposite ends in the two cases: one is supremely concrete, the other supremely abstract." (Berkes)

TEK is used collaboratively in management practices of public land in many other countries. The Mountain Cattlemen have a great wealth of intergenerational knowledge (TEK), and wish to be involved in assisting public land managers make better management decisions for the Victorian High Country. If these very important and long ranging decisions, (that are yet to be made and implemented on a tenure blind scale) involve the use of a combination of fire and grazing in some areas, then nothing should be off the table in this rapidly changing environmental situation.

In the Victorian High Country this knowledge relates to specific areas connected to particular families through Alpine Grazing for up to six generations and is known by no one else. This information and knowledge includes....

Where the secret waterfalls are; how to access hidden places; the place where the water runs uphill; where the giant and ancient snow gums are; how to protect the land from hot wildfire; how to survive in a sudden bushfire; the stories of the incidents and dramas relating to their area for over 100 years told around the campfire, specific knowledge that no one else knows.... the list goes on. This information should be preserved and shared.

The Mountain Cattlemen, the last of the High Country bushmen and women are “tradition bearers”. They should be regarded by Governments as an unparalleled resource, contributing significant information to aid management decisions relating to the Alpine National Park and its surrounds. If the Cattlemen are swept aside, nothing will replace them but bureaucrats, tourists and visitors - people who create no culture, have no heritage and will leave no mark on history. Only those that live in and love the bush can understand the bush - in all its complexity and in the stark beauty of its simplicity.

ACTIONS REQUESTED

1. That the Minister announces that the Mountain Cattlemen have a genuine claim to being a group with living and valuable heritage and culture that must be protected in the EPBC legislation and Regulation and the National Heritage listing.
(In that process it could be announced that the Government is looking to identify other such groups throughout Australia.)
2. There is an urgent need to introduce Legislation, or to amend existing Laws and Regulations (including the National Heritage listing and specifically the EPBC Act and regulations) to give more weight to preserving living heritage and culture in decision making. This will also ensure acknowledgment and preservation of the Heritage and Culture of groups in the Community who have the ability to pass on special inter-generational knowledge and skills.

Conclusion

The protection of cultural minorities is well understood internationally. Australia has attempted in a minor way to accommodate traditional hunting practices but more positive moves are required to protect culture and heritage of minority groups.

In the case of the Mountain Cattlemen, it is impossible for the families to continue practising their culture and pass on their knowledge to the children unless Alpine grazing is accommodated in appropriate places in the High Country. One such appropriate place is the former freehold and leasehold land of Wonnangatta Station.



Charlie Lovick
President, MCAV
March 2015



Article 8. In-situ Conservation

(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval and involvement of the holders of such knowledge, innovations and practices and encourage the equitable sharing of the benefits arising from the utilization of such knowledge, innovations and practices;

Extract from legal advice provided to the MCAV in 2012 by Mr David Laws, Barrister at Law on the Convention of Biological Diversity

'... As to item (j)

Sub-clause (j) of Article 8 accommodates groups who meet the specified criteria on an inclusionary not exclusionary basis.

I submit that the High Country cattlemen are as much a "local community embodying a traditional lifestyle who are the holders of knowledge of the sustainable use of biological diversity ... as are the stockmen or tribal aboriginal communities of Australia, and the cowboys, gauchos and Indian and Inuit peoples of the Americas. It is long past the time that this iconic group of real Australians and their lifestyle should have obtained formal statutory and regulatory recognition as such and that they not be palmed off or swept to one side as mere sentimental relics of a dead tradition, (or other quaint anachronism), only to be wheeled out by cynical advertisers as an emblematic marketing tool to promote a new line of jeans or other "bush" clothing.'

WHAT HAPPENS OVERSEAS?

Transhumance and Biodiversity in European Mountains

(This is a significant European study)

The full document can be found at the following link: [**Transhumance and Biodiversity in European Mountains**](#)

R.G.H. Bunce, M. Pérez-Soba, R.H.G. Jongman, A. Gómez Sal, F. Herzog and I. Austad (Eds.)

Transhumance and Biodiversity 2004. TRANSHUMANCE AND BIODIVERSITY IN EUROPEAN MOUNTAINS,

Report of the EU-FP5 project TRANSHUMOUNT (EVK2-CT-2002-80017). IALE publication series nr 1, pp 321

Introduction (verbatim translation)

This introduction is an edited version of the “Transhumant Declaration of Alcalá” which was produced by Antonio Gómez Sal following the Review conference in September 2003.

Extensive animal systems based on livestock displacement are called transhumance and constitute an important but declining element of the European cultural tradition. They have played a significant role in the origin and maintenance of many European cultural landscapes, especially those in the mountains. Because their ecological rationale is based on distant but complementary pastures or forage resources and they developed over centuries, they represent an exemplary method of sustainable land use.

Transhumance systems have significant cultural values, e.g. the shepherd people in Greece and Romania. In Spain, the knowledge and management rules associated with long distance transhumance, originating from the breeding of the Merino sheep, were once essential for the world wool industry. There are also itinerant shepherding systems, founded in a distinct evolutionary use of the traditional multiple land use landscapes, termed polyculture. They still exist in some remote but strategic regions, which are important for nature conservation in Europe.

There is a close and recognisable relationship between traditional farming practices, Cultural landscapes and biodiversity. The fascinating historical cultural elements associated with transhumance, have been developed over many centuries-and therefore have their distinctive patterns and structure. They involve management procedures based in the maintenance of ecosystem function and associated key ecological elements.

In many cases transhumance systems have generated a significant legacy of drove roads. These elongated grazing corridors often have a width of up to 70m and support a specific plant association and form a reticular structure across countries e.g. Spain and Greece. High mountain and lowland pastures, and as the renowned dehesas (wood pastures) form complex patterns within, the drove road network and maintain important habitats and rare species, both of animals and plants. Drove roads have an ecotone gradient with adjacent land. They also probably act as ecological corridors, as has been shown in Germany. Further research is needed to demonstrate the positive effects of these structures and adjacent habitats for nature conservation.

The role of drove roads as corridors can be increased by means of appropriate protection and management policies. Safeguarding the ecological links with other natural networks such as rivers and mountain slopes is also important. They could then constitute a framework for increasing the connectivity between protected areas, because they often pass through such land. These types of semi-natural silvopastoral landscapes can therefore reinforce the connection between the wider countryside and protected areas.

In general, these extensive livestock systems have an important role in nature and landscape conservation. Herbivory is a key factor for plant evolution, control of vegetation growth and a stimulus for plant productivity. Herbivory is a complex function that depends on the interaction between several animal species and breeds.

It should therefore be studied and systematised in order to be applied in adapted management policies based on extensive 2 Introduction livestock systems. A number of ancient livestock breeds are linked to transhumance. They should be preserved, not only because of their ecological significance, but also because of their educational, cultural and aesthetic value. They are also an important source of genetic material for future generations.

Herbivory and extensive livestock systems should play an increased role in nature management and conservation, and could then recover in some measure their original role in the traditional countryside and landscapes. Appropriate policies need therefore to be developed to maintain such systems. The indirect effects will help to control serious fires, improve pastures for grazing, and maintain habitat diversity. The associated species of fauna and flora, as well as cultural landscape conservation and the water balance will also be conserved if traditional agricultural systems are maintained.

In order to assure the conservation of this important legacy of drove roads, and high mountain and lowland pastures, it is necessary to find new functions for them. Tourism, green ways, education, leisure and nature conservation are all complementary uses, in addition to the production of high value foods. These new uses could help support people in the countryside, whilst maintaining landscapes and agriculture. Transhumance and associated extensive livestock systems, should have therefore be given policy support at a European level, in coordination with local authorities. ‘

From the USA recognizing the American Cowboy - July 19, 2013

July 27 officially National Day of the American Cowboy

“For the ninth year in a row, the U.S. Senate has declared a National Day of the American Cowboy. This year the day falls on July 27. U.S. Senator Mike Enzi and John Barrasso, both R-Wyo., introduced the resolution that the Senate passed unanimously last week to honor the accomplishments and contributions of cowboys across the nation.”