

# REVIEW OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY ACT.

Request for upgrade to the definition of heritage

The Mountain Cattlemen's Association of Victoria is responding primarily to Chapter 1, Preliminary , Object of the Act.

## 3 1(ca) *Protection and conservation of heritage.*

**We submit that the existing meaning of the word heritage should be clarified and strengthened by putting equal weight on protecting *living* heritage and culture as part of the EPBC process.**

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 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.

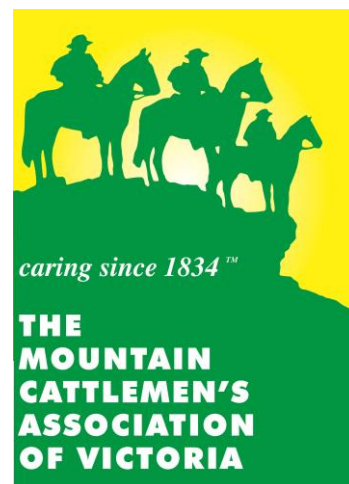
An Example:

## **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, would need to be assessed under the EPBC Act. This regulation contradicts itself because 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.



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We submit that this loophole highlights the need to strengthen and clarify interpretation of the word ‘heritage’ to ensure that it cannot be used under the EPBC Act and regulations to contravene the spirit of what is actually intended, as has happened in the past

**Ideally the Act would be amended to define ‘heritage’ as items of physical and social significance.**

As part of that process, the protection of *living* heritage and culture needs to be given equal weight in legal / 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:

#### 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.’

1. 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 ..”*

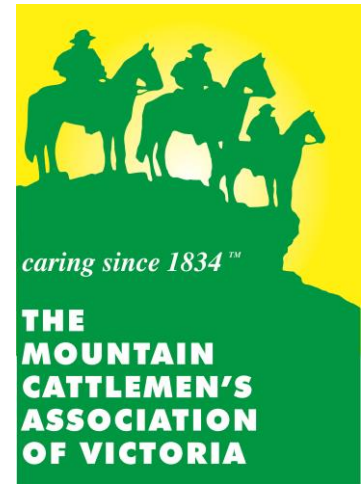
This is an example of how the word ‘heritage’ has never been fully defined and on reading the document carefully it is clear that the need to properly recognise and foster living heritage and culture is all but ignored. This omission can easily be rectified and, to assist, the MCAV is submitting this paper identifying the need to recognize living heritage to that process.

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 track was created by the first Mountain Cattlemen more than 155 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 and better trails that lead to Wonnangatta exist. It is a challenging route because it is almost over-grown since cattle were removed from that section of the Park in 1988. It is hard to find unless you know where it is.

**Our point is that the argument mounted by the Department against giving permission for that particular proposal, was that taking cattle down this historic driving track would compromise the heritage stock and bridle track values of the track!**

**This was plainly ridiculous but arguable by them at the time, because the loose wording of the word heritage was, we think interpreted to be a “thing” rather than a living thing.**



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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 unbalanced interpretations to occur.

For the record, in this instance 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 young people on that cattle drive are now the ones to relate to the next generation the knowledge about how it was done.

We make the point, confirmed by observers from the Department, that the cattle drive had no adverse impact what so ever on the environment, and only improved the track for the next horse group.

We draw your attention to the following extract from the Convention of Biological Diversity:



#### **Article 8. In-situ Conservation**

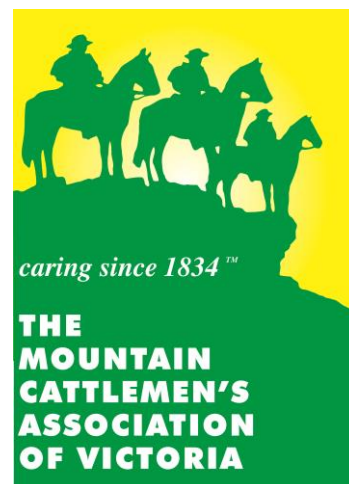
*(j) Subject to its national legislation, respect, preserve and maintain knowledge, innovations and practices of indigenous and local communities embodying traditional lifestyles relevant for the conservation and sustainable use of biological diversity and promote their wider application with the approval 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.'*



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## WHAT HAPPENS OVERSEAS?

### 1. 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)

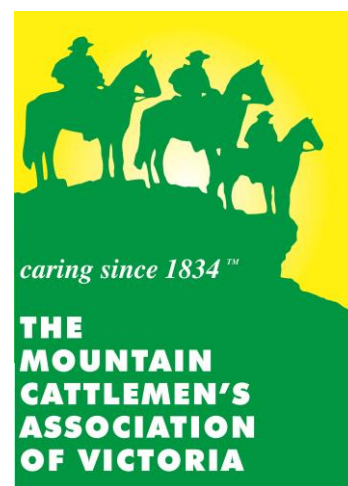
This introduction is an edited version of the “Transhumount Declaration of Alcalá” which was produced by Antonio Gómez Sal following the Review conference in September 2003.

*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.*



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*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 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.*

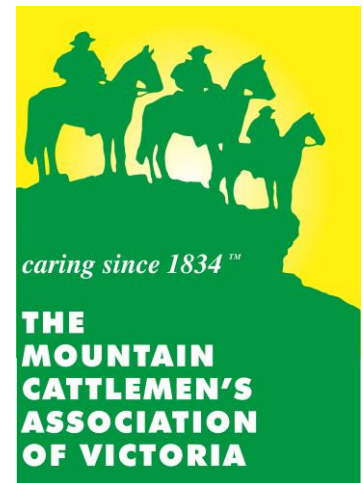
*In order to assure the conservation of this important legacy of drove roads, and high mountain and lowland pastures, it is necessary to find new functions for them. Tourism, green ways, education, leisure and nature conservation are all complementary uses, in addition to the production of high value 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. ‘*

**2. In Switzerland the practice of transhumant grazing is legendary and celebrated.**

**3. 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.”*



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## Conclusion

### WHY DOES THE 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 more than 185 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 and tradition of the Cattlemen to share this knowledge and the country 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 totally extinguished.

Luckily, in Victoria grazing of public land still takes place so the heritage hangs on!

The gradual destruction of this culture for partisan political reasons robs Australia of a unique link between its pioneering past and its cosmopolitan future. 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.

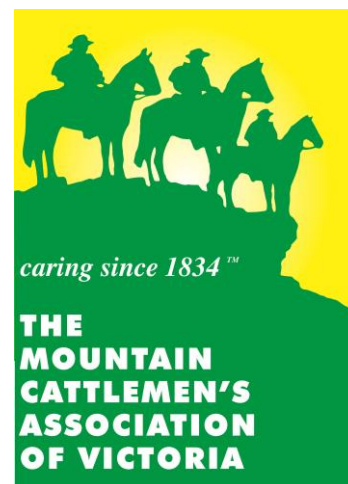
It is now accepted that the first Mountain Cattleman was James McFarlane from the Monaro who settled in Eastern Victoria in 1834. Gradually the mountain families spread across the High Country and very significantly they learnt much from the Aborigines especially copying their burning practices.

The intergenerational knowledge dating back to indigenous management of the land held by the Cattlemen about the Victorian High Country is on the verge of being lost forever as practising their craft of Alpine Grazing now only exists in State forest. The knowledge however still exists. If what remains of the living heritage and culture isn't acknowledged as important to Australia's heritage, what remains (and which belongs to all Australians) will also be lost.

This knowledge relates to specific areas connected to particular families through Alpine Grazing 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 has.... the list goes on.*

**We submit that the people who hold this specific knowledge of traditional practices going back in time should be identified as preserving living Australian heritage and culture. We believe the EPBC act should be amended to specify this living heritage to complement other forms of Australian Alps heritage including Mountain Cattleman's hut and yards which have already been identified as important.**



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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.

**We make a simple point. There would probably not be one ranger working in the Alpine National Park who could lead anyone to “where the water runs uphill” so that knowledge will be lost forever unless the people who know where that feature is are identified , recognized and encouraged to pass on their knowledge in one form or another.**

#### **THE EPBC PROCESS AND IDENTIFIED FLAWS**

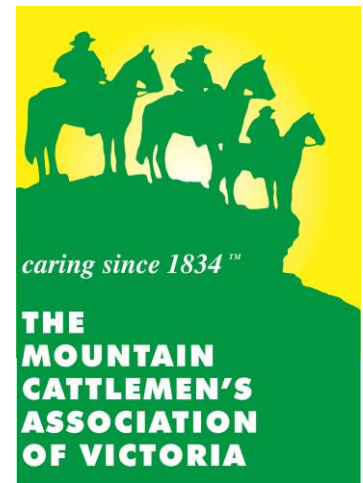
One of the issues surrounding the EPBC process is that it appears that any application under the Act is not allowed to include listing the *benefits* of the application: Only the *adverse* environmental ‘impacts’ of the application are required to be specified. The absence of any reference to possible benefits is an approach precluding any balanced decision and it does so by loading the scales against a consent being granted, even before the decision-making process begins.

Under this process, during the consultation to conduct grazing trials in the Wonnangatta Valley in 2014, we understand that the Victorian Governments EPBC application to conduct the 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 without serious and irremediable effect on the landscape.

It was only permitted to list the **potential impacts** of the grazing trial proposal. Surely this is a flaw in the process?

#### **ACTIONS REQUESTED**

1. 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 balancing that important component in decision making. This will also ensure acknowledgment and preservation of the heritage and culture of groups in the Australian community who have the ability to pass on special inter-generational knowledge and skills.
2. Regarding especially the Australian Alps, that the Victorian and remnants of the NSW Mountain Cattlemen be recognized as a group with living and valuable heritage and culture



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that must be considered and protected in the EPBC legislation and Regulation and the National Heritage listing.

NB: In that process the review committee may care to look at other such groups throughout Australia.

Groups that come to mind include the locals who live on the Bass Strait islands and partake in the annual short tailed shearwater ( mutton bird) harvest. These island families are of both indigenous and European descent and they pass on the knowledge and “birding” customs to their families providing a living heritage and very long tradition that could and should be considered as important.

One day there may be a review of “birding” and if that occurs, the living heritage practised by those families should be taken into account.

More information contact

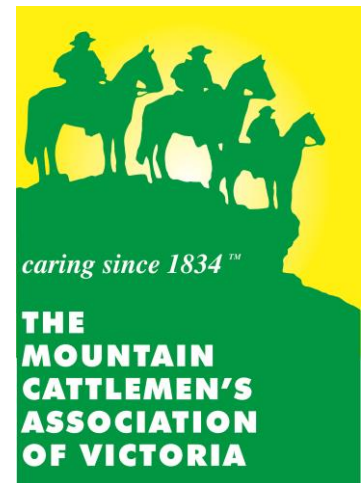
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