



Thursday 20th December 2011

Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

By email to: ec.sen@aph.gov.au

Dear Sir/Madam,

Re: Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011

The Wilderness Society strongly supports the *Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011* as tabled by Senator Larissa Waters.

The current arrangements of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) for protecting endangered species are inadequate. For example a newly discovered species on a development site cannot receive legislative protection, as there is no means to “list” a species under the EPBC Act in an emergency, and the current listing process can take years.

The EPBC Act is also written in such a way that developers do not have to consider or protect any new species discovered after their project has been formally deemed a “controlled action” under the EPBC Act by the Minister (s158A). This means that although a developer may discover a new species in the process of conducting their Environmental Impact Statement (which is more thorough than the initial desktop studies that are required for referral as a controlled action), they are not legally obliged to protect the species. This is a serious flaw on Australia’s commitment to protecting biodiversity.

Below is a clear case study where the EPBC is failing in its objective to protect Australia’s biodiversity.

Case Study: Rio Tinto’s South of Embley bauxite mine

Rio Tinto is proposing a significant expansion of their bauxite mining operations between Weipa and Aurukun on Cape York Peninsula (which is effectively a new mine with its own facilities and operations). The Wilderness Society strongly opposes this mine due to serious environment impacts, including the clearing of nearly 30 000 hectares of forest, the damming of Norman Creek, water extraction from the Ward River, and the proposed new port facilities and dredging at Boyd Point.

With respect to Rio Tinto’s EIS for the project, there are serious deficiencies which relate to the proposed Bill:

- A new crab species was found as part of the EIS in Winda Winda Creek (*Austrothepusa sp.*), and a new freshwater shrimp species was found in the upper Ward River (*Lepidomysida sp.*). Rio Tinto offers no discussion about the habitat of these species or the likely impacts of mining in the catchment areas where they are found (including impacts of removal of bauxite layer on groundwater and water quality), or the impacts of pumping water directly from the Ward River (with respect to the shrimp).
- Despite the significant threat the mine poses to the newly discovered crab and shrimp species, Rio Tinto is not legally obliged to protect these new species. The discovery of new Crustaceans should have at least triggered a

thorough independent study of aquatic ecosystems in the project area to determine the habitat and extent of these species (new species may indeed still be found given the apparent frequency of discoveries in the area).

- With the amendments as proposed in the Bill being considered by this committee, Rio Tinto would be forced to do one of the following: prove unequivocally that their mine would not harm these species; alter their mine plans to demonstrate the species will not be harmed; or not proceed the mine. This is the proper cause of action given the very high conservation value of these new species.
- Finally, in ecologically intact, remote and biodiverse regions such as Cape York Peninsula, the discovery of new species is likely to continue to occur. It is these areas and the species within them that are most at risk from the perverse existing provisions in the EPBC Act.

We would like to conclude by noting that the Gillard Government has already partially endorsed the provisions in this Bill via the endorsement of Recommendation 16 of the “Hawke Review” into the EPBC Act. We strongly encourage the Gillard Government, the Coalition and Independent Senators to see the sense in passing this Bill, including the important concurrent amendments to s158A of the EPBC Act.

Regards,

Glenn Walker
Wild Rivers Campaigner
The Wilderness Society