

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

12 December 2011

Dear Secretary,

IFAW submission to the Senate Standing Committees on Environment and Communications inquiry into the Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011

The International Fund for Animal Welfare (IFAW) welcomes the opportunity to submit comments to the Senate Standing Committees on Environment and Communications inquiry into the Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011.

IFAW works to save animals in crisis around the world. IFAW is an international animal welfare and conservation organisation with representation in 16 countries and carrying out work in more than 40. IFAW focuses its campaigns on improving the welfare of wild and domestic animals by reducing the commercial exploitation of animals, protecting wildlife habitats and assisting animals in distress. IFAW works both on the ground and in the halls of government to safeguard wild and domestic animals and seeks to motivate the public to prevent cruelty to animals and to promote animal welfare and conservation policies that advance the well-being of both animals and people.

Please find below comments from IFAW regarding the Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011.

Yours faithfully,

Matthew Collis
Campaigns Officer
IFAW Oceania

IFAW submission to the Senate Standing Committees on Environment and Communications inquiry into the Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011

A) Summary:

- The International Fund for Animal Welfare (IFAW) supports the Bill.
- The need for emergency listings provisions for threatened species was identified by the Hawke review of the EPBC Act and accepted in principle by the Government in its response to the review.
- Emergency listings provisions are needed immediately because new species are being discovered all the time, and often as a result of research required by the decision that an EPBC Act referred activity is a controlled action.
- Crucially, emergency listings must be allowed to be considered at all stages throughout the environmental impact assessment process to give these listings relevance and to achieve good conservation outcomes. Prioritising certainty for proponents of referred activities over newly discovered and imminently threatened species is wholly unacceptable, completely counter to the precautionary principle enshrined in the EPBC Act and makes a mockery of the concept of emergency listings.
- Without the quick introduction of emergency species listings and amendment of S.158A of the EPBC as proposed by the Bill, the Government's promised reform of the EPBC may appear to solve the problem of imminently threatened and newly discovered species, but will in fact be a toothless provision.

B) IFAW submission:

1. The International Fund for Animal Welfare (IFAW) supports the aims of the Environment Protection and Biodiversity Conservation Amendment (Emergency Listings) Bill 2011. The Bill would allow the emergency listing of threatened species and ecological communities where they are at risk from a significant and imminent threat. A similar function already exists within the EPBC Act for emergency heritage listings.
2. The Bill is needed because the current listings process under the EPBC Act for threatened species is often slow and species and ecological communities are not protected by the Act until listed, even when their very existence may be threatened. This need was recognised in the independent review (the Hawke review) of the Act conducted by Dr Allan Hawke (Hawke 2009, recommendation 16), and accepted in principle by the Government in its response to the Hawke review (DSEWPac, 2011).
3. IFAW supports the passage of the Bill at this time for the reasons identified by Senator Waters during her second reading speech for the Bill (S. Deb. (13.10.11) pp7336-7337). IFAW is concerned that as the EPBC Act currently stands it is impossible for the Minister to: 1) make an emergency listing; and crucially 2) then take that listing into account in making assessments of referred activities under the EPBC Act, if that new species is discovered during the assessment process but after the initial referral decision has been made.
4. Senator Waters gave the example of the discovery of two new species (a crab and a shrimp) highly likely to be significantly impacted by Rio Tinto's proposed expansion of its bauxite mine in Weipa, on Queensland's Cape York. This mine is currently

undergoing EPBC Act assessment, yet under the current provisions its impacts on these as yet unlisted species cannot be considered by the federal Environment Minister when assessing this proposal. As Senator Waters outlined, it would be a travesty to send new species to extinction before they have even been named, and had the chance to be listed as threatened, particularly when these species are endemic to that area, and are directly threatened by the proposed activities under assessment.

5. There are significant environmental information gaps across Australia and new species are being discovered regularly, both previously unrecorded species but also through better understanding of existing populations which have previously been believed to be part of another species. For example, recent research (Charlton-Robb et al. 2011) has identified a new dolphin species, the Burrunan dolphin (*Tursiops australis* sp. nov.), endemic to the waters of Southern Australia, which was previously believed to be of another species. As the authors of that research identified, the recognition of this new species is particularly significant “given the endemism of this new species to a small geographic region of southern and south-eastern Australia, where only two small resident populations in close proximity to a major urban and agricultural centre are known, giving them a high conservation value and making them susceptible to numerous anthropogenic threats”.
6. The authors go on to point out:

“The formal recognition of this new species is of great importance to correctly manage and protect this species, and has significant bearing on the prioritization of conservation efforts. This is especially crucial given it's endemism to a small region of the world, with only two small known resident populations and the proximity of those to major shipping ports, commercial and recreation fisheries, residential, industrial and agricultural stressors. Recognition of this new species opens the pathway that *T. australis* would qualify for listing as a threatened species under the Australian Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) thus allowing immediate and directed conservation effort for further protection.”
7. Therefore, a newly discovered species such as the Burrunan dolphin, with only two known resident populations, numbering approximately 90 and 50 animals respectively, would be exactly the kind of species that could benefit from an emergency listing under the EPBC Act given its highly threatened status from human activities. The Government has committed to including emergency listings provisions in its full EPBC reform package but this is not likely to be introduced until later in 2012. Given the ongoing discovery of new, and highly threatened species, IFAW believes the changes in this Bill should be brought forward immediately.
8. As the EPBC Act currently stands, Section 158A, completely undermines the concept of “emergency” protection by stunting the ability for emergency listings to have impact. This is because it prevents emergency listings being considered by the Minister if a referred activity has already received a decision finding the activity to be a “controlled action” (i.e. needing federal approval). This decision takes place right at the very start of the federal assessment process but new species are often only discovered through research required as part of the assessment process brought about from the controlled action decision.
9. IFAW believes the measures in this Bill, by amending S.158A will help make “emergency” protection genuine protection. IFAW understands industry concerns to have certainty for proposed activities, however, IFAW believes protecting newly discovered and potentially threatened species should be the priority, particularly

where their very survival could be at risk. The Bill would prevent spurious applications for emergency listings as a tactic to block activities because it requires the listing process to demonstrate there is an imminent and significant threat.

10. Therefore, IFAW fully supports the provisions in the Bill to allow emergency listings to be considered at all stages throughout the environmental impact assessment process, in order to give these listings relevance and to achieve good conservation outcomes. Prioritising certainty for proposed activities over newly discovered and imminently threatened species is wholly unacceptable, completely counter to the precautionary principle enshrined in the EPBC Act and makes a mockery of the concept of emergency listings.

C) References:

Charlton-Robb K, Gershwin L-a, Thompson R, Austin J, Owen K, et al. (2011) A New Dolphin Species, the Burrunan Dolphin *Tursiops australis* sp. nov., Endemic to Southern Australian Coastal Waters. PLoS ONE 6(9): e24047. doi:10.1371/journal.pone.0024047

DSEWPaC (Australian Government Department of Sustainability, Environment, Water, Populations and Communities), 2011. Australian Government response to the report of the independent review of the Environment Protection and Biodiversity Conservation Act 1999. Canberra: DSEWPaC.

Hawke, A., 2009. The Australian Environment Act – Report of the Independent Review of the Environment Protection and Biodiversity Conservation Act 1999. October 2009. Final Report. Canberra: Australian Government Department of Environment, Water, Heritage and the Arts.