

Dr Brendan Wintle (on behalf of others – see below)
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The Secretary
Standing Committee on Environment, Communications,
Information Technology and the Arts
Legislation Committee
email ecita.sen@aph.gov.au

Dear Secretary,

Environment & Heritage Legislation Amendment Bill (No. 1) 2006

We make the following comments on the above Bill.

Species listing process weakened

Proposed provisions give the Minister greater control over the listing process for species and heritage and potentially restrict nominations to annual themes. Conservation status, determined by suitably qualified experts should determine the urgency of assessment.

Cumulative impacts

The current interpretation of the legislation is that impacts are considered on an individual level, making it very difficult to consider cumulative impacts, such as land clearance and regional level forestry operations in meaningful way. This downfall should be addressed in the review process.

Cutting already thin green tape

Provisions to increase the speed of development come at the cost of reducing the rigor of impact assessment. The proposals for streamlining the referrals and assessment processes require assessments to be based purely on the information provided in the referral are likely to result in poorly informed decisions that jeopardize species and ecosystems. Accreditation of plans, regimes and policies reduces the ability and opportunity for the community to usefully participate in assessment of developments.

Access to information amendments needed

Lack of access to information restricts the public's ability to make an informed contribution to environmental decisions under the legislation. Amendments are needed to ensure that all documents required to be lodged are available over the web, including for example preliminary documents and public environment reports. Public exhibition periods need to cease during Easter and Christmas holiday periods.

Improvements to matters of national environmental significance needed

It is necessary to include wetlands of national importance, not just international importance, and to expand the listed migratory species trigger to also include Annexure 1 of UN Convention of the Law of the Sea.

Inadequate Survey Requirements

The Act currently provides no guidance to proponents of potentially threatening development activities about survey requirements. Nowhere in the Act or schedules are there protocols for determining the presence or absence of species in areas facing habitat alteration or destruction, nor does it require that proponents identify and implement a survey strategy of sufficient rigor to detect a species with an acceptably high probability if it is, in fact, present. The lack of guidance in the Act about minimum acceptable survey efforts renders it vulnerable to naive mis-use and even abuse. If nothing else, the Act should require that development activities must be preceded by surveys that provide a reasonable guarantee of species detection, if present.

There is now a substantial body of literature documenting issues associated with detectability of plants and animals under standard survey conditions and the power of monitoring designs to detect changes in threatened species populations resulting from habitat alteration. Factors shown to influence faunal detectability include temporal, climatic and environmental variables, while plant detectability is likely to be affected by variables such as the observer, search method, habitat management regime, lifeform and lifestage of the plant, and other characteristics affecting the visibility of the plant.

It is unreasonable to assume perfect detection in a flora or fauna survey and it is no longer acceptable for threatened species legislation to fail to address this issue. A recent estimates that single-visit detection probabilities range from 0.20 to 0.84 for birds, and 0.14 to 0.55 for owls and arboreal marsupials (see submission by Bekessy and Garrard et al.). This means that for some species, significant survey effort is required to have any confidence that the species is in fact absent from a site.

We do not mind our names and address being made public. We request a chance to address the Committee in relation to this inquiry.

Yours faithfully,

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