

Environment and Communications References Committee

Senate Inquiry into the Faunal Extinction Crisis

Submission by the Wairambar Rainforest - Paul and Roberta Michna

This Submission Addresses Topic E.

“The adequacy and effectiveness of protections for critical habitat for threatened fauna under the Environment Protection and Biodiversity Conservation Act 1999”

Key Point – Addressing the protection of critical habitat on freehold land

Critical habitat found on freehold land could be more easily protected with a bit of cost effective re-thinking. We present three impediments that inhibit a greater uptake of habitat protection on freehold land and three recommendations that should protect more habitat in the future.



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Paul & Roberta Michna - Wairambar Rainforest



Who we are - Wairambar Rainforest established 2002

We represent the Wairambar Rainforest <https://sites.google.com/view/wairambarrainforest> an ancient refugia area of very high biodiversity in extreme terrain including a number of endangered and rare species adjoining the Wet Tropics World Heritage Area in far north Queensland. Our property of 24Ha is entirely mature rainforest comprising a number of ecotones located at 700m with an annual rainfall of about 4000mm.

I am an accredited Wet Tropics World Heritage Guide. My wife Roberta is also a guide. We are active members of TREAT, a rainforest restoration group established 1986 that plants about 30,000 rainforest trees per year; members of TKMG the Tree Kangaroo and Mammal Group; contributors to the Atlas of Living Australia and have a website on rainforest restoration techniques / cassowary friendly fencing. On-site is a rainforest research facility for which we offer free use to genuine researchers.

We were Wairambar Rainforest Nature Refuge in Queensland under a ten year agreement 2006-2016. After 18 months of one-sided communication we simply gave up trying to extend the agreement. Challenges to our particular freehold habitat protection intentions have included invasive plants [we are three years into a ten year project to hand remove invasive *camilia sinensis (tea)* from under the canopy], illegal gold mining, feral pig damage and feral cats eating vulnerable species



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Problem #1

Upfront costs to freehold landowners who would voluntarily like to protect habitat.

A freehold landowner who voluntarily offers to protect critical habitat on their property is clearly a well intentioned person. Currently to do the right thing entails substantial upfront charges to the freehold landowner in order to formalise this act voluntary of kindness. A Commonwealth Conservation Agreement requires over \$6000 upfront before it is considered. In Queensland costs of establishing a Nature Refuge fall on the landowner and are substantial. The costs are high due to the complexity of the legalistic contract, the substantial / costly support documentation and the mandated use of third parties. Ideally entering into some arrangement at a state / national level should mean that at least some consideration is given to the owner should the protected habitat become at risk.

Recommendation #1

The Voluntary Declaration of Habitat Protection

Using an on-line portal, the landowner provides...

- the location of the habitat,
- what they wish to protect,
- how they wish to protect it
- the length of time they are willing to agree to before termination or renewal of the declaration.

The state / national entity looks at the proposal...

- agrees or agrees with a bit of modification / advice
- the declaration is given a unique number and put into a database based on location.

Say a power line is proposed, the database is integrated, protected habitats along the route pop-up and may be given due consideration prior to a final decision.

The declaration may be terminated at the end of the agreed time by the landowner. It may be renewed by both parties for another stated period or cancelled by the state / national entity or by both parties.

This sort of arrangement may not give you everything exactly as you want it but it will be much more encouraging to landowners. You have to assume that if someone is willing to do something nice, they probably will.

Every little bit helps. A simplified declaration may protect a nesting site on an individual urban lot, a constructed frog pond at a local primary school or a large area of rainforest.

Ideally this process requires at most a one or two page on-line form and perhaps 15 minutes of government time. The outcome is excellent cost / benefit and should therefore be free of charges.

Problem #2

Perpetuity regarding protected habitat

Perpetuity - having to enter a perpetual contractual agreement on freehold land that goes on forever is unrealistic and discourages participation by landholders. Government obligations go from one term of office to the next. During our tenure as a Nature Refuge the program was virtually closed down, then privatised, then re-started. Legislation can be overridden if the will of government is to do that. Where else are contracts that are still valid in 20,000 + years legislated?

Over time whatever you are trying to protect could move to a more favourable habitat, go extinct or be so successful that it is common. How absurd to have a protected habitat that is no longer serving its fundamental purpose? Protected habitat could also become unprotected if governments decide to overlook their necessity, resulting in no one being available to support the landowner, yet the contract, now only one-sided remains valid forever.

Recommendation #2

Fixed term agreements and renewals replace perpetuity

Freehold landowners would more likely be encouraged to declare protected habitat if they could do so for a fixed period (say 10 years) at which point the declaration could be renewed.

Advocates for perpetuity argue the need for the tenure to extend beyond the life of a particular owner. Ten years protection of a habitat is still a good outcome. It is a stepping stone which helps evolve and extend a culture of protection of habitat. It also allows for growth of awareness of protective measures to be built into future agreements rather than assuming we, the present custodians, have all the answers. Locking protected habitat into a static contract does not take into account emerging future technologies, methodologies or supportive revenue streams.

Problem #3

Punitive vs. Supportive

Generally agreements at state / national level for habitat protection on freehold land are one-sided and punitive. A well intentioned person voluntarily offering to protect habitat on freehold land discovers numerous restrictions are placed on their actions without any support in the event some infrastructure is planned that will impact on the protected land.

Basically both state and national agreements come down to...

- the owner is the protector of the land
- the government will check on the owner
- if the owner does not comply bad things will happen - for example in Queensland the state can bring in a third party to fix for example a track that does not comply and bill the landowner
- in return for your compliance no support or consideration is offered should the protected land be at risk by future development / infrastructure / changing ideologies

Punitive approaches presume the landowner intends to do the wrong thing yet by their very actions they are offering to do the right thing.

Recommendation #3

Supportive vs. Punitive

A supportive approach assumes the landowner is well intentioned and concerned for the integrity of the land. Why else would they volunteer to protect habitat?

A carrot works better than a stick. If governments are encouraging protective land management practices they need to be supporting their management. Protecting land can be legislated but there is no guarantee the degradation will restore itself. The need to control feral pests and invasive species is critical. These measures are beyond the remit of an individual landowner. Knowledge and practical control measures need to evolve. Measures to protect flora and fauna need to be encouraged. For instance local council native plant nurseries need on going funding as they are critical to the national estate. The critical nature of habitat and the animals that live within it needs to be considered when future infrastructure needs could impinge on protected habitat; and be seen as an element needing to be taken into account when determining "the greater good".