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Secretary

Senate Standing Committee on Environment and Communications References Committee:

Inquiry into EPBC (Bilateral Agreement Implementation) Bill 2014 & EPBC Amendment (Cost Recovery)

Bill 2014

**Comments on the EPBC Amendment (Bilateral Agreement Implementation) Bill 2014 by the Urban Bushland Council WA Inc.**

The Urban Bushland Council WA (UBC) is the peak community organisation for urban bushland conservation and protection in Western Australia. The Council has over 70 community conservation groups as members as well as individual supporters.

The following comments on Bush Forever are intended to illustrate that high standards and provisions as set out in the EPBC Act are not evident in WA State Laws. Most of the Bush Forever sites are habitat for black cockatoos which are threatened with extinction and are listed under the EPBC Act as endangered species under Matters of National Environmental Significance. The UBC does not believe that the state processes, even with an approved bilateral agreement, would achieve the same environmental outcome as could be achieved through the EPBC Act, because our state processes do not protect the habitat of endangered species and do not protect biodiversity generally. Neither do WA State processes and laws protect any fauna while their habitat is not protected in law, and is being destroyed, degraded and fragmented by continued clearing and development.

**Bush Forever**

Since its inception in 1993, the Urban Bushland Council has lobbied for public recognition, legal protection and management of the rich biodiversity of urban bushland in the Perth region and the South West of WA and other regional centres.

A main focus for the Council since 2000 has been the WA State Government's Bush Forever plan. To identify the regionally significant areas of bushland and wetland to be included in Bush Forever, extensive and scientifically rigorous flora and vegetation surveys were undertaken by botanists and the community and 287 regionally significant Bush Forever Areas were identified by government for protection as Bush Forever sites. As the vegetation communities in the Perth Metropolitan Region are unique, the collection of Bush Forever Areas and each Area individually are indeed of *both regional and national significance*.

The implementation was to be completed in 10 years from the 2000 launch of Bush Forever. However implementation is still far from complete now, 14 years later, but we do acknowledge that much has been achieved. It is the lack of legal protection over *all* Bush Forever sites *and* the lack of an adequate context of a modern Biodiversity Conservation Act for WA which are major deficiencies and major concerns for our members.

During the last 5 years, resources for securing and managing the Bush Forever sites have been progressively curtailed and the community remains deeply concerned especially in the face of a rapidly

growing and sprawling city, as well as sharply declining rainfall due to climate change. The WA State government had stated in the Bush Forever document 2000 that 'Protection of sites will begin immediately but full implementation may take up to ten years.' (Bush Forever page 90 Vol 1.) Fifteen 'Actions' were proposed in the Bush Forever document, which included a public education strategy. This was never implemented and the general public is unaware of what Bush Forever is and probably most have not even heard of it.

The UBC planned and held a Bush Forever Report Card Conference in December 2012. Feedback from the attendees gave a consistent message – Bush Forever implementation must be completed and properly funded: with statutory protection for all Bush Forever sites; greatly increased government resources to manage these unique public assets for future generations; and public education and awareness of our unique bushland and its values.

Data for August 2012 shows that 101 out of 287 Bush Forever sites still had no management agency assigned (WA Hansard 2012).

In December 2012, the UBC called on the state government to renew its support for Bush Forever, provide an audit of the current status of all Bush Forever sites, and provide legal protection as well as funds for ongoing staffing and on-ground management of our unique, precious and threatened bushland heritage.

Inappropriate and unacceptable developments encroaching on Bush Forever sites are now too common. Assessment of these proposals under State law is grossly inadequate. If a proper, modern Biodiversity Conservation Act were in place for WA, these development proposals would not even emerge, as the Bush Forever sites would be properly protected as A class Nature Reserves and clearing and developments including installation of infrastructure pipelines and roads would not be 'permitted uses' under the State's planning legislation.

Furthermore, the clearing of habitats for endangered species such as Carnaby's Cockatoo, the Forest Red-tailed Black Cockatoo and Baudin's Cockatoo as well as the State's listed Threatened Ecological Communities would not be permitted.

Without a modern State Biodiversity Conservation Act, in WA we are dependant on the provisions of the federal EPBC Act. Three examples of the need to maintain the federal level of assessment under the current EPBC Act follow.

### **1.) Mangles Bay proposed marina-based tourist precinct Rockingham**

Landcorp (the government development agency) and private developer Cedar Woods/Cranford Pty Ltd proposed a new marina and canal development for Mangles Bay Rockingham. The proposal is to clear and excavate 40 hectares of the Pt Peron Bush Forever Area vegetation in which to build the canals. This area proposed for clearing is regionally and nationally significant bushland. In addition, apart from the 40 hectares of the Bush forever site, the proposed clearing includes 33.75 hectares of 'Acacia shrublands' (Priority 3 ecological community) 1.93 hectares of 'Callitris preissii forest and woodlands' which is a Threatened Ecological Community and 0.56 hectares of 'Eucalyptus gomphocephala and/or Agonis flexuosa woodland'.

### **Lake Richmond thrombolites and sedgeland**

Threatened species and ecological communities immediately adjacent to the proposal in another Bush Forever Area (Lake Richmond) are the 'Critically Endangered' (EPBC Act) 'Sedgeland in Holocene dune swales of the southern Swan Coastal Plain' and the 'Endangered' (EPBC Act) 'Thrombolite (microbial) community of coastal freshwater lakes of the Swan Coastal Plain (Lake Richmond).'

Under State listing (but without statutory protection) the thrombolites of Lake Richmond are listed as critically endangered. Notably the EPBC Act listing category has not been reviewed and updated to 'critically endangered' despite the evidence for this.

There is no actual assessment by the WA EPA in their Public Environmental Review (PER) of impact on the thrombolites of raising the 'invert level of Lake Richmond to allow greater storage of water and thereby balance the small reduction in groundwater levels predicted over the long-term.' (EPA Report p50). Nor is there any assessment of the impact of sea water intrusion in surface or groundwater as a result of the proposed canal development very close to the shores of Lake Richmond.

Despite the huge environmental impacts, the WA State's Environmental Protection Authority report on the PER recommended that the Minister for the Environment approve the proposal, subject to conditions. Advice from the State's Conservation Commission on this proposal was ignored and then the advice was suspiciously withdrawn.

***Thrombolites are the oldest and arguably a most critical asset still remaining on the face of the Earth representing the earliest forms of life on Earth*** which produced oxygen so that other plant life forms could evolve. The thrombolites are threatened by this development proposal. It is beyond our belief that such a significant 'living museum' of life forms with origins from 3.5 billion to 600 million years ago could be destroyed because the State's EPA and the WA State Minister for the Environment failed to conduct their assessment properly and ignored the obvious risks. It is beyond our belief that any risk whatsoever to the health of the Lake and its thrombolites could be tolerated or allowed. The State's formal environmental impact assessment process under the WA Environmental Protection Act has failed in this case.

The only hope for protection of this critically endangered natural asset is a proper assessment and rejection under the federal EPBC Act. It would be a matter of national and indeed international shame if our laws fail to ensure that this risky canal development is rejected. Without the fact that the independent federal government assessment process is in place, this proposal may be approved.

## **2.) Roe 8 Highway extension through Beeliar Wetlands**

Rows of elongated wetlands extend over the Swan Coastal Plain parallel to the coastline. Many have been filled in and at least 80% have already been destroyed. The enormously costly proposal to extend the Roe Highway through the middle of the Beeliar wetlands in the Beeliar Regional Park is demonstration that the State Government does not put environmental protection at the forefront. There is strong community action against this proposal. The WA State EPA assessment and report to the Minister for the Environment recommended approval with conditions. Premier Barnett said publicly *before the appeals were decided* by the state Minister for the Environment, that Roe 8 extension would go ahead - 'but not in this term of government'. But the State Minister for the Environment, whose decision under the Environmental Protection Act is final, has not yet made his decision. So the Premier has intervened in the proper process of law - this is a failure of governance by the State of WA.

## **3.) Underwood Avenue Bushland, Bush Forever site 119.**

Various proposals by the University of Western Australia (UWA) for clearing and housing development in this significant Bush Forever site have been put forward and variously rejected and approved by flawed assessments by the State's EPA over the past ~15 years. Sound community and scientific advice has been ignored.

The last variation of a proposal referred to the federal Environment Department (then SEWPAC) under the EPBC Act was to be rejected in the draft decision. But the UWA withdrew their proposal overnight before the then Minister signed off the draft decision.

The outstanding significance of this site for MNES under the EPBC Act: especially Carnaby's Cockatoo and more recently the Red-tailed Forest Black Cockatoo is undoubted. It is critical feeding habitat within 1ha and 6ha radius of a major roost site on the corner Underwood Ave and Brookdale/Brockway Rd. The site is also regionally significant *Banksia prionotes* woodland which provides habitat for the regionally threatened resident small bird species as well as cockatoo feeding habitat. Carnaby's Cockatoo is an iconic species for the Perth region. Also the Underwood Avenue bushland is a critically important ecological stepping stone and linkage between two WA icons: Kings Park and Bold Park.

We are dependent on the provisions of the EPBC Act for proper assessment and protection of these MNES. We wish to keep these iconic but threatened Carnaby's Cockatoos in our suburbs. Thus we need to keep the existing provisions of the EPBC Act, and they need to be strengthened and rigorously enforced in the national and state interests.

### **Conclusion**

Implementation of the 'one-stop shop' will not provide better environmental outcomes. It will be even worse than at present and presents a serious danger for our biodiversity hotspot here in the south west of WA and in the Perth region. We do not believe that the State Government of Western Australia has the capacity or the political will to bring all its processes up to the national standard on a sound scientific basis of protecting our rich and unique biodiversity. Rather than facilitating certainty for business, we maintain that certainty for environmental protection *must come first* before business facilitation. We cannot recreate nature. After all, each one of us is dependent on the services and diversity of nature, to keep it stable for future generations in the face of global warming and climate change.

Yours sincerely  
C Mary Gray  
President  
Urban Bushland Council WA Inc.