



Committee Secretary
House of Representatives Standing Committee on the Environment
PO Box 6021
Parliament House
CANBERRA ACT 2600

Via: email (environment.reps@aph.gov.au)

Date: 22 March 2014

Dear Sir/Madam

RE: SUBMISSION ON THE INQUIRY INTO STREAMLINING ENVIRONMENTAL REGULATION, 'GREEN TAPE', AND ONE STOP SHOPS

We would like to take this opportunity to comment on the Committee's inquiry into streamlining environmental regulation, 'green tape', and one stop shops. Our understanding is that the Committee inquires into and reports on the impact of 'green tape' and issues related to environmental regulation (*Environmental Protection and Biodiversity Act 1999* – EPBC Act) and deregulation in Australia.

Bat Conservation and Rescue Qld Inc. (BCRQ) is a non-profit organisation involved in the rescue, rehabilitation and release of flying-foxes and microbats. We promote conservation and preservation of habitat through education. We have strong expertise in the rescue and rehabilitation of flying-foxes and microbats and sound knowledge in environmental legislation and its implementation. We believe we can provide a valuable and balanced viewpoint with respect to the proposed changes in environmental regulation and providing advice to reduce green tape. We want to ensure that the Australian environment is protected from adverse development and feel we can contribute with advice on maximising the effectiveness of the environmental process.

We believe any actions that are likely to have a significant impact on the environment should be subject to additional scrutiny and all appropriate steps and recommendations are taken to ensure that mitigation measures are maximised and all impacts are minimised and all impacts must be offset. The legislation requires further refinement to guarantee that sufficient time and consideration is focussed on projects with significant impacts and the costs involved need to reflect this. We recommend that Federal regulations should be implemented as animals do not have distinction of state borders and often species habitats extend both across borders and interstate. This is clearly the case with mobile animals such as bat species. Any actions that affect habitat preservation, rehabilitation and corridor strengthening can ultimately and directly affect complete species that spread across areas beyond state boundaries

There are many positives about having a one stop shop to the environmental legislation; however there are some areas that warrant further attention to streamline their operation. These key issues are covered below in four parts, responding to each of the House of Representative Terms of References:

- 1) *Jurisdictional arrangements, regulatory requirements and the potential for deregulation;*
- 2) *The balance between regulatory burdens and environmental benefits;*
- 3) *Areas for improved efficiency and effectiveness of the regulatory framework; and*
- 4) *Legislation governing environmental regulation, and the potential for deregulation.*



1) Jurisdictional arrangements, regulatory requirements and the potential for deregulation

It is generally thought that industries could be more profitable with less government intervention. But this should not be at the expense of destroying our environment. We see a number of areas in which the regulatory burden of the environmental legislation can be both clarified and reduced, allowing mitigation and recovery efforts to be more focussed on projects which are genuinely relevant at a Federal level.

We recognise that deregulation can have some positive impacts to business. By decreasing environmental legislation, this process can lower costs associated with development and increase competition; decreased bureaucracy and consolidation. However, it is essential to recognise that individual firms lack the perspective and/or the incentive to protect the environment. The drawbacks of this process include especially poor quality of development and degradation of the environment which would have dramatic impacts on the health of our ecosystems and subsequently, the Australian community's health and wellbeing. The natural environment, with all its ecosystem services, comprises the entire basis for life on the Australian land and its value is impossible to quantify. It is well known that the state of the environment has effects on food production through its role in water, nutrients, soils, climate and weather as well as on insects that are important for pollination and regulating infestations. Environmental degradation due to unsustainable human practices and activities seriously endangers the entire production platform of the Australian land. Without a well regulated, implemented and/or enforced environmental legislation, proponents are likely to be unwilling to protect our environment.

We believe that the regulation of business and industry by government is essential for consumer protection. The current EPBC Act has to some extent, managed developments and ensured that appropriate offsets are provided where required. While we believe that environmental legislation should be maintained, a one stop shop can be successfully implemented in accordance with the few changes outlined in the following sections.

2) The balance between regulatory burdens and environmental benefits

Terminology - Inconsistency with Federal and State Policies

There is a strong need for well defined and appropriately used terminology such as "important population" or "critical habitat". It must be better defined to facilitate a standardised approach and help with the self-assessment of the EPBC Act requirements.

The terms "significant impact" and "important population" underpin the entire referral process; however, it is still unclear how these terms are defined by the current EPBC Act. This definition can also differ from State definitions which make the assessment of an application complex and difficult to assess. Provision of clear and unambiguous definitions, with supporting examples, for key terms such as this will minimise the potential for differences in interpretation. Clarification will help to ensure that potential impacts to threatened species are correctly assessed and identified in the first instance.

It is essential to identify the length and width of potential corridors. Connectivity needs to take into consideration movement of all species likely to be affected, not just threatened species as all species in the potentially affected habitat are likely to be affected, and the loss of suitable habitat and connections via corridors has the potential to alter that status of currently not threatened



species to become threatened. All species will cross roads even highways, climb fences, run in backyards if it makes up part of their normal range. Corridors are likely interpreted differently depending of the area of interest. Scientific data should always take precedence into the assessment of all corridors and the impact of any proposed development is likely to have on the corridor.

To function as a broad-scale landscape linkage, corridors must be wide enough to support ecological processes, minimise edge effects and enable species to move safely between larger habitats over an extended period of time. The recommended widths of corridors that are designed to operate on a regional scale range from a minimum of 300m to 500m, based on current literature (DIPNR, 2004ⁱ; Bennett 2003ⁱⁱ). No maximum widths are prescribed, as the most effective option to increase the functionality of a corridor is to maximise the width (Bennett 2003; Hilty *et al.* 2006ⁱⁱⁱ). There are several benefits gained from increasing the widths of corridors, including a reduction in disturbance and edge effects, and a greater chance that the linkages will provide for species with requirements for a large amount of space or specialised feeding or habitat requirements (Bennett 2003). However, as discussed earlier, corridor solutions for threatened species can be quite different depending upon the circumstances of each situation. It is highly unlikely that large corridors (i.e. 300m width) as recommended will be sufficiently maintained or restored in urban areas. The environmental legislation and associated guidelines should provide more guidance and clarity on suitable and acceptable solutions when dealing with connectivity and / or corridors (including what would represent an appropriate width in specific to different areas (i.e. Inland and coastal have different minimum acceptable and sustainable requirements).

3) Areas for improved efficiency and effectiveness of the regulatory framework

Alignment with State or Local Processes

A central concern with respect to the current environmental legislation is that it introduces layers of time and cost which duplicate existing processes. There appears to be a deficiency in coordination between the Local, State and Federal documents/policies, which will create some discontinuity between the reporting and assessment at each level of government.

If one stop shop is to be provided, the responsible entity must provide strategic protection of the Australian environment, its species and their habitat, rather than relying on site by site assessment.

Habitat values mapping for threatened species must be undertaken. These are currently quite deficient in substance and a more substantially accurate representation than the current EPBC Act mapping needs to be undertaken to obtain the necessary information to make correct and informed decisions regarding habitat destruction, the impacts associated with that destruction, habitat conservation, preservation and the ability to provide suitable and sufficient offsetting.

We would recommend that technical standards and definitions are clearly defined and aligned.

Intent and Complexity of the EPBC Guidelines

BCRQ understands that the intention of the changes in legislation is to promote streamlined decision-making and approval processes. However, all environmental legislation should give particular attention to the following:

- *Promoting avoidance and mitigation of significant impacts on the threatened species;*



- *Promote and ensure the recovery of the threatened species through the regulatory requirements of the EPBC Act;*
- *Promote a clear, consistent and transparent approach for proponents deciding whether to refer an action to the Department for approval and assessment of significant impacts on the species.*

We believe that the involvement of recognised researchers, experts and other consultants must be served to make the environmental legislation as scientifically robust and ecologically accurate as possible, given current knowledge of the species and key threatening processes. We are also supportive of the better structure of the document, which would seek to provide a clear and repeatable procedure that streamlines the EPBC Act referral process for threatened species and their habitat.

Qualification of Proponent and Assessment Manager

It is essential that appropriate specialists provide sufficient information about potential impacts of a development on the Matter of National Environmental Significances (MNES). However, we often see inappropriate officers submit on EPBC referrals. These officers are often not certified or qualified to provide the appropriate data or background information on the potential impact of a proposed development on threatened species.

Moreover, any EPBC referral must be assessed against the EPBC Act, which require technical (e.g. ecological) skills and knowledge. The assessment manager (e.g. Federal Government) must also have sufficient qualification in the relevant speciality they assess.

In order to minimise risk associated with incorrect assessment of the impact on MNES for a project area, we would like to suggest that independent third party organisations or certified environmental practitioners (e.g. certified under the Environment Institute of Australia and New Zealand) assess EPBC referral application. This third party organisation will ensure that each referral has been completed in accordance with the most up-to-date and scientific data, and provide technical advice on the application to ensure that the EPBC Act is complied with. The cost associated with this assessment would be paid by the applicant/proponent through a separate trust which would ensure transparency between the proponent and the Government. The Federal Government would make the final decision based on the third party advice. The proponent should not be aware of the assessor manager to ensure a fair assessment of the application.

Mapping

One of the major threats to the survival of threatened species is vegetation clearing. Therefore, detailed vegetation and threatened species habitat mapping should form the basis of conservation efforts. However, most of the mappings available on each threatened species are coarse. Accordingly, proponents for the vast majority of development applications and actions in each States are subject to deeper layers of the self assessment process than necessary.

It is essential that mapping be standardised to identify known areas of threatened species and the presence of threatened species habitat at a finer scale. It is recommended that mapping which are used to assess the habitat of threatened species be provided at a finer level of detail and more engagement with expert organisation be provided. Mapping should use the best available mapping and data, updated as better information becomes available. Providing easier and better mapping technologies will improve the self assessment process and curtail referrals triggered due to



uncertainty.

Data Availability

In order to provide an appropriate assessment of the potential impacts of a proposed action on threatened species habitat, DoE recommends undertaking a detailed desktop assessment of the site. This assessment includes searches of threatened species records in State, Territory and non-government databases, as well as a literature review, review of Threatened species strategies and management plans in the region, and the review of the current vegetation mapping and aerial photographs. When undertaking desktop surveys, accessing suitable data in a timely manner is critical to assist with the assessment of threatened species habitat quality, habitat size, habitat connectivity and occurrence on various sites.

Data and/or information (published or unpublished literature for instance) is often difficult and time consuming to access. Proponents do often not seek outside data and limits themselves to common databases. However, other sources of information should be checked on a regular basis (e.g. from non-governmental groups such as BCRQ or the Australian Threatened species Foundation). A system should be put in place through the government (State or Federal) to ensure that data is readily available from trusted and scientific groups which can provide verified data.

4) Legislation governing environmental regulation, and the potential for deregulation

Limitations to a regulatory response

The main intent of the environmental legislation is to provide clear guidance on whether or not an action is to be referred to DoE, and to streamline the assessment process while ensuring avoidance and mitigation of significant impacts on the threatened species is provided to protect the species across the nation. BCRQ recognises that the environmental legislation establishes a well-developed assessment framework that provides for the development of proactive solutions and good mitigation measures to remedy against some of the known threats.

It is important to recognise the limitations of regulatory controls. However, the Act is not well implemented or enforced. Moreover, by and large, regulatory assessment and controls placed on new projects, including the EPBC assessment process, primarily limit the extent of impacts – rather than aid the recovery of species. Even if all new developments and controlled actions were to cease immediately, no new habitat would be created. Accordingly, if recovery of the threatened species is the ultimate objective of the DoE, it is recommended that additional focus is placed on actions and policy responses which result in protection and rehabilitation of habitat, resulting in a net gain of habitat. It is noted that some such actions may be outside of the direct gamut of the EPBC Act.

Offset connectivity

It is recognised that offsets are to be used as a strategy only in circumstances where avoidance and mitigation has resulted in residual impacts. Offsets however have an advantage of enhancing and protecting habitat. As one of the major threats to threatened species is fragmentation of habitat, it follows that the offsets which are generated by the EPBC Act and other processes are, as far as possible, focussed and connected.

The assessment of major projects at State and Federal level in recent years has created



obligations for proponents to secure offsets for a range of habitats presumably totalling many tens of thousands of hectares. Whilst approval conditions specify the type of habitat to be secured as offsets, seeking 'ecological equivalence', there is little guidance however regarding preferred locations of habitat. As habitat is already fragmented, this largely uncoordinated approach of securing offset areas is likely to result in a different pattern of fragmented habitats.

BCRQ recommends that key bioregional ecological corridors are identified and a range of measures be enacted to facilitate the prioritisation of offsets into habitat corridors. BCRQ recommends that DoE collaborate with all Governments and other stakeholders to ensure the best possible outcomes for the environment.

RECOMMENDATIONS

To summarise, BCRQ outlined the following main recommendations:

- 1. State and Federal Technical Standards and definitions are aligned;*
- 2. Include recommendation for involvement of suitably and certified professional (e.g. certified through EIANZ) early in the EPBC Act referral and project development processes, where an action is outside an urban area and is likely to have threatened species habitat present on site;*
- 3. A certified third party entity should also take the role of assessment manager. This will increase transparency between the proponent and the government and ensure that appropriate assessment is undertaken relevant to the EPBC requirement;*
- 4. Improve definitions for key terminology within the EPBC Act to prevent potential misinterpretation;*
- 5. Provide detailed vegetation mapping of the entire species range at a finer scale (local level). Suggest to align Federal and State mapping;*
- 6. Provide an accessible GIS mapping and data resource of scientifically verified data and information;*
- 7. Place additional focus on direct actions and rehabilitation which result in a net gain of threatened species habitat; and,*
- 8. Facilitate mapping and prioritisation of offsets into key bioregional ecological corridors.*

We trust this information is sufficient for your purposes;

Yours sincerely
Louise Saunders

President
Bat Conservation & Rescue Qld Inc

ⁱ Department of Infrastructure, Planning and Natural Resources (DIPNR), 2004, *Wildlife Corridors, North East New South Wales, Northern Rivers, Catchment Management Authority*

ⁱⁱ Bennett, A.F., 2003, *Linkages in the Landscape , The Role of Corridors and Connectivity in Wildlife Conservation*, IUCN Forest Conservation Programme, *Conserving Forest Ecosystem Series No.1*



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ⁱⁱⁱHilty JA, Lidicker WZJ, Merenlender AM, 2006, *Corridor Ecology: The Science and Practice of Linking Landscapes for Biodiversity Conservation*. Island, Washington, DC