



13 December 2012

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

Dear Ms Dunstone

Inquiry into the effectiveness of threatened species and ecological communities' protection in Australia.

The Urban Bushland Council WA presents the following submission to the above Inquiry. In summary we submit that protection of threatened species and ecological communities in WA is inadequate and ineffective at both the WA State Government level and at the Commonwealth Government level.

Background

The Urban Bushland Council WA Inc. is the peak community organisation for urban bushland recognition and protection and comprises a community association of some 70 groups, mostly 'Friends of ..' groups, with a common interest in the conservation of urban bushland. Most of our member groups are located in the Perth and Peel regions. We provide support and information to our members, run educational activities, conduct major projects involving citizen science such as the Perth Urban Bushland Fungi project, and have last week (7 December 2012) presented a one day public conference entitled the Bush Forever Report Card, for which we will publish printed proceedings. In March 2011, we held a one day symposium on Perth's Banksia Woodlands and produced printed proceedings.

Protection and conservation of the unique, highly biodiverse Banksia Woodlands of the Swan Coastal Plain, where the Perth Metropolitan Region is situated, is a particular focus of our activities and interests. This region is a biodiversity 'hotspot' within the internationally recognised biodiversity hotspot of the south west of WA, one of 35 so listed in the world and the only one in Australia. Thus the bushland of our Perth region is of national significance, and it is identified as a hotspot for conservation priority *because it is under threat*. It includes many threatened species and ecological communities which are listed and gazetted by the State Government, but many of these are not yet listed (and should be) by the Commonwealth Government under the Environmental Protection and Biodiversity Conservation Act (EPBC Act).

Ineffective State protection

1. Threatened species

Threatened species of flora are listed under the WA Wildlife Conservation Act as 'Declared Rare Flora' and the permission of the Minister for the Environment is required if such flora is to be 'taken', ie destroyed by clearing. The Act however is seriously outdated, is not based on a theme of

conservation of nature but rather control of the old fashioned hunting of wild game, and has many shortcomings and gaps. It does not include requirements for Recovery Plans or for any such plans to be implemented, or monitored or audited. It does not provide for adequate protection of habitat of endangered flora.

While all fauna is described in the Act as protected, there is no provision in the Act for protection of fauna habitat *per se* or of the habitat of State listed threatened fauna. There are no provisions requiring implementation or auditing of recovery plans for threatened fauna. Some species do have recovery plans, however many are out of date or are not adequately resourced and are not preventing further species loss.

Auditor General's Report 5, June 2009

We draw your attention to the WA Auditor General's Report '*Rich and Rare: Conservation of Threatened Species*' Report 5 June 2009 which gives details of the lack of State protection described above. This damning report is very thorough and very clear in its analysis. We recommend this report to the members of your Senate Committee.

In its Executive Summary (p5), the report states:

'WA is internationally significant for its biodiversity, of both flora and fauna. WA has over half of Australia's biodiversity hotspots and the South West is internationally recognised for its biodiversity.'

The Conclusion states:

'In many areas DEC is not effectively protecting and recovering threatened species. The number of threatened species is rising and only a few species are improving. Recovery action is not happening for most threatened species. The majority of resources and effort are allocated to critically endangered species, placing vulnerable and endangered species at risk of further decline.'
*'.....The Wildlife Conservation Act 1950 does not establish a process for listing and recovering threatened species and does not provide species with adequate protection.
DEC cannot demonstrate the overall effectiveness of its threatened species conservation activities....'*

Key findings include:

'601 species in WA are listed as threatened with extinction and this number is increasing. Only a handful of species are improving.'

The key findings on p6 of the report are nothing less than alarming. WA's legislation and resources allocated for protection of endangered species and communities is hopelessly inadequate and requires urgent remedial action with a massive investment by Government as a matter of public interest and good governance.

Inherent conflict of interest

The Wildlife Conservation Act does not bind the Crown and the WA Department of Environment and Conservation (DEC) includes the timber harvesting activities of the Forests Products Commission, is a land manager as well as the conservator of threatened species and communities. Thus the DEC has an inherent conflict of interest as operator, judge and jury. For example, its timber harvesting activities are not subject to effective monitoring and protection of the three species of endangered black cockatoo (Carnaby's Cockatoo, Baudin's Cockatoo, and the Forest Red-tailed Black Cockatoo) and this is of major community concern. Under the Regional Forest Agreement, in areas being logged there is no effective monitoring or control of protection of critical breeding, feeding and roost habitat for the Black Cockatoos. Retention and protection of critical habitat of old mature Marri trees for example is not being properly monitored and ensured.

Management of Key Threats

The key threats to threatened species and communities in the south west of WA are:

- land clearing,
- declining surface water flows and declining groundwater levels from excessive abstraction compounded by a drying climate,
- Phytophthora Dieback disease,
- Marri Canker disease,
- feral animals,
- weed invasion,
- excessive fire and prescribed burning
- climate change.

Land clearing remains the biggest threat which could be controlled. WA is not meeting its commitment under national objectives and targets 2001-2005 to reduce the national net rate of land clearance to zero. Indeed now in 2012 we still do not have ongoing public reporting (on line) of total land clearing in each bioregion, (one of which is the Swan Bioregion including the Swan Coastal Plain). The public is not being told how much land is being cleared nor how much habitat of endangered species is being cleared or lost each year.

Regulatory arrangements under State law

WA does not have a legislated process for listing species as threatened and for recovering those species (Auditor General's Report 2009, p14). Nominations are reviewed by a scientific committee which then advises the Minister for the Environment, however this process is not statutory and the Minister is not bound to list recommended species. The same applies for threatened ecological communities (TEC), and indeed many nominations for listing have not been passed onto the Commonwealth for listing under the EPBC Act. This is disturbing given that there is no statutory process or protection for TEC listing under WA law.

WA State Clearing regulations

While land clearing regulations were introduced in 2004 under the WA Environmental Protection Act, these have not been effective in preventing the clearing of habitat of endangered species. Under section 510 of the Act, the CEO must have regard to the 10 clearing principles when deciding to grant or refuse a clearing permit. Some applications for clearing permits are certainly refused, but most clearing on the Swan Coastal Plain in the Perth Metropolitan Region is exempt from the regulations (ie a clearing permit is not required) under Schedule 6, and thousands of hectares of habitat of the endangered Carnaby's Cockatoo have been cleared or will soon be cleared for urban expansion.

The decision to grant a clearing permit is made by the Director General of DEC and appeals against a decision may be made to the Appeals Convenor in the office of the Minister for the Environment. However there is no legally binding process for consideration of appeals and few are upheld despite adequate grounds being presented.

There is no on-line data publicly available which shows how many hectares of habitat of threatened species is being lost by clearing, or by disease such as Phytophthora dieback or Marri canker, by salinity, groundwater drawdown, or fire.

2. Threatened ecological communities

There is no identification or protection for threatened ecological communities (TEC) under the WA Wildlife Conservation Act. They are not even mentioned. This is a major gap for such a biodiverse State.

As mentioned above, TECs are listed by the State Government but they have no statutory protection under State law. They are however, rigorously scientifically assessed for listing by the Threatened Species Scientific Committee which then recommends listing to the Minister for the Environment.

Under the WA clearing regulations, the CEO 'must have regard to' the clearing principle (d) which states that *'native vegetation should not be cleared if it comprises the whole or part of, or is necessary for the maintenance of a threatened ecological community'*.

However this has not always been an effective mechanism to stop clearing of TECs. The CEO can also have regard to planning instruments such as zoning in a Town Planning Scheme and can decide to grant a permit. This may often apply to the species rich areas on the Swan Coastal Plain.

Thus the absence of effective Biodiversity Conservation legislation in WA, which could and should protect threatened species and communities in all situations, means that we are reliant on federal legislation under the EPBC Act to do this. Even this is seriously inadequate because so many TECs of regional and national significance *are not yet EPBC Act listed* or are *listed at a lower level of threat* than at the State level. This applies especially to the Swan Coastal Plain. The State Government (Minister for the Environment) has not been nominating state listed TECs for EPBC Act listing. This we believe is a matter of public shame and must be rectified.

Furthermore, even when proposals for clearing are 'controlled actions' under the EPBC Act as is often the case on the Swan Coastal Plain for clearing of Carnaby's Cockatoo habitat, proposals are rarely if ever refused, only retain small parts of areas, and rely on so-called offsets to justify clearing. Loss of habitat of a threatened species simply cannot be replaced as complex ecosystems cannot be replanted or recreated in a new location. There is always a net loss of habitat and therefore the concept of offsets is fundamentally flawed on ecological grounds.

Perth's Banksia Woodlands threatened

Because of overarching threats to the Banksia woodlands of the Swan Coastal Plain, the Urban Bushland Council, together with the Wildflower Society of WA early in 2012 nominated the Banksia Woodlands of the southern Swan Coastal Plain for listing as threatened communities under the EPBC Act. We are advised that this nomination was accepted and is due to be assessed in the next round commencing 2013 to be completed by December 2014.

Funding arrangements

The protection and management of endangered species and communities and their habitats in the south west of WA is grossly under funded and under resourced at all three levels of government: federal, state and local. Whilst there is excellent management research and on-ground work carried out by State agencies such as DEC, it is nowhere near enough and relies excessively on short term funding grants often through voluntary community groups or offsets. Short term and erratic funding via offsets does not provide the long term consistent management that is needed.

Because the south west is a national treasure of species rich biodiversity which is under threat, it deserves a federal initiative which delivers much greater federal government funding for its protection and management. Further because the Perth metro region is a threatened biodiversity hotspot in its own right, and is the region where most of the people of WA live, it deserves a special focus for much greater federal funding.

In parallel with the above federal initiative, the State should be required to urgently introduce a modern Biodiversity Conservation Act, and allocate new and substantially increased permanent operational funding for effective State protection and management of threatened species and communities in conjunction with management of all ecological communities. Threatened species and communities rely on retention and maintenance of what is common. As a nation we must manage our natural landscapes holistically, otherwise if we wait until species are critically endangered we will lose them all.

Other related matters

The Urban Bushland Council is deeply concerned about proposals being discussed in the media currently to reduce or remove environmental assessments under the EPBC Act and to rely only on State assessment processes for faster approvals of development proposals. The public pressure being applied by large mining interests and their lobby groups for such fast tracking and avoidance of proper assessment and retention of biodiversity is totally unacceptable, contrary to the public interest and is undemocratic. It is not acceptable for big business interests and land developers to dictate and seek rights to uncontrolled developments.

In conclusion we submit that Federal Government provisions under the EPBC Act for threatened species and communities should be strengthened and certainly not reduced or bypassed as our rich biodiversity which is under threat needs greater federal protection and much greater federal resources for its retention and management for the benefit of future generations and to meet our international duty to keep our unique species and communities in the face of serious threatening processes. This is a matter of outstanding national importance.

Further the State Government in WA should be obliged to introduce modern effective Biodiversity Conservation and to properly resource it as an urgent priority.

We wish to bring to the attention of Senate Committee Members our new website www.bushlandperth.org.au and especially the video we have recently produced "Our Banksia Woodlands".

Representatives of the Urban Bushland Council are available to provide further information on this submission if required.

Yours sincerely

C Mary Gray

President

Urban Bushland Council WA Inc.