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EPBC Act Review Secretariat
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8 April 2020

SUBMISSION TO DISCUSSION PAPER (REVIEW OF EPBC ACT)

Overview

The main focus of the Koala Action Group (KAG) is in the protection of koala populations and their habitat in the short and long term. However, we are well aware that by protecting koala habitat, this also protects many of the plants and animals that depend on this habitat. This submission will concentrate on the effectiveness (or otherwise!) of the existing Act and how it operates to protect koalas although other comments of a more general nature will be made.

In addition, we would also like to endorse other submissions that have used expertise beyond ours, namely those of the Environmental Defenders Office and Wildlife Queensland.

Our comments broadly follow the questions from the EPBC Review website that are particularly relevant to our group in heavy type and demarked by two horizontal lines.

Terms of Reference for the Review (ToR)

KAG supports the first and second numbered sections of the ToR. However in section 3, point c seems to be pre-judging the review with the use of the words ' unnecessary regulatory burdens' (under whose opinion are these unnecessary?) in an attempt to influence the outcome:

c. making decisions simpler, including by reducing unnecessary regulatory burdens for Australians, businesses and governments

Similarly it may not be possible to 'simplify' the regulation other than by removing it which would conflict with the objects of the act.

The reviewer and panel should request replacement of the wording of 3 c. in the ToR with non-biased language.

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Question 1: Some have argued that past changes to the EPBC Act to add new matters of national environmental significance did not go far enough. Others have argued it has extended the regulatory reach of the Commonwealth too far. What do you think?

The critical point is whether the EPBC Act is achieving its object in retaining and strengthening the existing matters of national environmental significance. If it is not (and there is strong evidence that it is not - see question 6 discussion) then there is no option but to add new matters of national environmental significance and extend the regulatory reach of the Commonwealth's Constitutional powers to achieve its objects. Of course there will always be vested interests who do not want their destructive activities curtailed in any way and seek to control government policy to their advantage.

Question 2: How could the principle of ESD be better reflected in the EPBC Act? For example, could the consideration of environmental, social and economic factors, which are core components of ESD, be achieved through greater inclusion of cost benefit analysis in decision-making?

Achieving ESD requires the effective integration of short and long-term environmental, economic, social, and equitable considerations, including through the following principles (ESD principles) in public and private sector decision-making:

- *Prevention of harm*: Taking preventative actions against likely harm to the environment and human health.
- *Precautionary principle*: Taking precautionary actions against harm that would be serious or irreversible where scientific uncertainty remains about the likelihood of that harm; and engaging transparently with the risks of potential alternatives.
- *Intergenerational equity*: The present generation has an obligation to ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations
- *Intra-generational equity*: The present generation has an obligation to ensure that environmental costs, benefits and outcomes are borne equitably across society.
- *Biodiversity principle*: Ensuring that biodiversity and ecological integrity are a fundamental consideration in decision-making, including by preventing, avoiding and minimising actions that contribute to the risk of extinction.
- *Environmental values principle*: Ensuring that the true value of environmental assets is accounted for in decision-making – including intrinsic values, cultural values and the value of present and future ecosystem services provided to humans by nature.

- *Polluter pays principle*: Those responsible for generating waste or causing environmental degradation should bear the costs of safely removing or disposing of that waste, or repairing that degradation.

Embedding a modernised set of ESD principles in the Act will help ensure that decision-making is consistent with maintaining and strengthening the environmental systems that operate on a local, regional, national or global level, including to support the diversity of life on Earth.

In relation to cost-benefit analysis, there are certain limitations and assumptions to consider. For example, the use of cost-benefit analysis assumes that all aspects of the environment can be reduced to a dollar value, and it is also difficult to accurately identify what value a future generation will place on a particular ecosystem, ecosystem service or other aspect of the natural environment. Any cost-benefit analysis must ensure that true environmental costs are included (to date, environmental values and costs are not adequately represented in cost-benefit analysis).

Question 3: Should the objects of the EPBC Act be more specific?

KAG supports the Environmental Defenders Office suggestion of elevating the primary object of the Act to ensure that biodiversity and ecological integrity are the fundamental consideration in decision making:

> *The primary aim of this Act is to conserve and protect Australia's environment, its natural heritage and biological diversity including genes, species and ecosystems, its land and waters, and the life-supporting functions they provide.*[1]

Social, economic and equitable issues should continue to be taken into account in decision-making as integrated, but secondary, considerations consistent with the principles of ESD.

KAG also supports the Environmental Defenders Office suggestion that the Act should also include a limited number of secondary objects such as:

Secondary objects

(a) to provide national leadership and partnership on the environment and sustainability, and to achieve ecologically sustainable development;

(b) to recover and prevent the extinction or further endangerment of Australian plants, animals and their habitats, and to increase the resilience of native species and ecosystems to key threatening processes;

(c) to ensure fair and efficient decision-making; government accountability; early and ongoing community participation in decisions that affect the environment and

[1] This proposal and prioritisation is consistent with recommendations of the Report of the Independent review of the EPBC Act 1999 (2009) (Hawke Review), at 1.49-1.50: *The primary object of this Act is to protect the environment, through the conservation of ecological integrity and nationally important biological diversity and heritage.*

future generations; and improved public transparency, understanding and oversight of such decisions and their outcomes;

(d) to recognise Aboriginal and Torres Strait Islander peoples' knowledge of Country, and stewardship of its landscapes, ecosystems, plants and animals; to foster the involvement of these First Australians in land management; and expand the ongoing and consensual use of traditional ecological knowledge across Australia's landscapes;

(e) to fulfil Australia's international environmental obligations and responsibilities; in particular to take all steps necessary and appropriate to achieve the purposes of the following international agreements (among others):
- the World Heritage Convention;
- Biological Diversity;
- the Ramsar Convention on Wetlands of International Importance;
- the Bonn Convention on the Conservation of Migratory Species of Wild Animals
- the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES);
- the United Nations Declaration on the Rights of Indigenous Peoples;
- the United Nations Framework Convention on Climate Change (as applicable to emissions reduction and carbon management under the Act); and
- special bilateral or multilateral conservation agreements (including agreements with Japan, China and the Republic of Korea to protect migratory birds in danger of extinction).

(f) to recognise and promote the intrinsic importance of the environment and the value of ecosystem services to human society, individual health and wellbeing.

Achieving the objects in practice

The Act should also include an introductory section that specifies how the objects are to be achieved. For example, Ministers and agencies should be required to exercise their powers and functions under the Act to achieve the Act's objects.

Question 4: Should the matters of national environmental significance within the EPBC Act be changed? How?

Strengthening the primary object of the Act as suggested above would necessitate a review of national environmental significance to ensure that it meets the primary object.

Question 5: Which elements of the EPBC Act should be prioritised for reform? For example, should future reforms focus on assessment and approval processes or on biodiversity conservation? Should the Act have proactive mechanisms to enable

landholders to protect matters of national environmental significance and biodiversity, removing the need for regulation in the right circumstances?

It is impossible to separate assessment and approval processes from biodiversity conservation. Biodiversity is affected by the ability of the approval process to conserve it. Thus, legislation needs incentive mechanisms as well as regulatory controls. Best practice environmental legislation applies the appropriate tool or mechanism best fitted for delivering the desired outcome.

Example priorities for reform are:

1. Absolute protection of critical habitat that is enforced, monitored and investigated by the regulator
2. Unreferred habitat loss must be monitored and investigated and appropriate enforcement action taken
3. Documentation and assessment of cumulative impacts of development must be taken into account as part of the assessment process

There have been many attempts by both local and state governments to minimise the loss of koala habitat through the development process. These have spectacularly failed, mainly through the failure to recognise cumulative impacts and weakness of the controls. The theory is that if every developer is only allowed to develop half of the bushland then that will give a good outcome in protecting habitat. But what happens in practice is that every application is considered in isolation and we have the half of a half of a half being developed which eventually means all the habitat is lost.

Case study: Koala habitat protection in the Koala Coast

A 69 hectare development site (Ney Road) in Capalaba was found to have 70 healthy, breeding koalas pre-development in 1995. A 'koala friendly' development plan was designed to protect the koala habitat by keeping approximately half the site as bushland (25% as reserve, 25% in large lots to retain trees) with the rest normal size house blocks. The site was intensively studied and the movement of koalas was radio-tracked. After development in 2004 there were 15 koalas on site with lower fecundity and more disease.[2] In recent times koalas are rarely if ever seen.[3]

[2] Dique D.S, Thompson, J., Preece, H.J., de Villiers, D.L. and Carrick, F.N. 2003. "Dispersal patterns in a regional koala population in south-east Queensland" Wildlife Research, **30**, 281-290.

[3] Qld Parks and Wildlife Database

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Question 6: What high level concerns should the review focus on? For example, should there be greater focus on better guidance on the EPBC Act, including clear environmental standards? How effective has the EPBC Act been in achieving its statutory objectives to protect the environment and promote ecologically sustainable development and biodiversity conservation? What have been the economic costs associated with the operation and administration of the EPBC Act?

The elevation of environmental protection and biodiversity conservation as the primary aim of the Act will necessitate the setting of clear environmental standards consistent with Australia's international obligations.

The effectiveness of the Act

The EPBC Act is found wanting on every indicator. The State of the Environment Report 2016 makes this very clear:

> "There is no indication that the major pressures on biodiversity outlined in the state of the environment (SoE) 2011 report have decreased
>
> The key pressures of habitat clearing and fragmentation, invasive species and climate change remain high on the list of pressures (identified by jurisdictions) that threaten listed species and ecological communities, and biodiversity in general.
>
> The number of threatened species and threatened ecological communities has increased since 2011"[4]

The report also outlines six key barriers to effective national management of the environment:

- lack of an overarching national policy that establishes a clear vision for the protection and sustainable management of Australia's environment to the year 2050;
- poor collaboration and coordination of policies, decisions and management arrangements across sectors and between managers (public and private);
- a lack of follow-though from policy to action;
- inadequacy of data and long-term monitoring;
- insufficient resources for environmental management and restoration; and
- inadequate understanding and capacity to identify and measure cumulative impacts."

The EPBC Act needs to address these points to improve its effectiveness.

[4] Australia State of the Environment 2016 https://soe.environment.gov.au/download/reports

By any benchmark the Act is not achieving its objects of protecting the environment and promoting biodiversity. Australia has one of the worst records in species extinction. The most critical factor in protecting endangered species is protection of their habitat. Since 1999 there has been a loss of 7.7 million hectares of habitat of threatened species.[5] Of this 93% has been unregulated showing the ineffectiveness of the Act.

Of the referrals only a minute number (0.7%) were refused outright, a larger number were allowed with conditions and the majority were allowed to proceed unhindered. The ineffectiveness of the referral process is exemplified using the example given below of how the EPBC Act deals with the protection of koalas.

The EPBC "Referral Guidelines for the Vulnerable Koala" include a "Koala habitat assessment tool" which gives a numerical formula for the protection of koala habitat (no doubt an example of 'streamlining' environmental approval). This simplistic tool, designed for self-assessment effectively eliminates the protection of koalas in any habitat area that is not greater than 500 hectares; is not capable of regeneration to near-perfect habitat; and is away from any threats such as vehicles and dog attacks. This is an inexplicable approach, to deny protection to the animals that need it and only protect animals that are in no danger! There would be very few koala habitat areas that would satisfy these criteria apart from large forested areas. Unfortunately the recent catastrophic fires have shown that these large habitat areas are not always as safe for koalas as previously thought.

Additionally this under-appreciation of habitat that has been impacted by humans is directly counter to the scientific studies. In koala population studies in the 1980's South East Queensland was shown to have the highest density of koala numbers in Queensland and New South Wales. The Koala Coast southeast of Brisbane was considered the stronghold for koalas in spite of being close to a capital city and having had development dating back to early settlement. There have been many studies of the area, some with surprising results:

> "The importance of the urban koala population in bolstering the bushland population has previously been underestimated. This has now been confirmed with the detection of a significant decline in koalas at bushland sites that have not experienced any loss or visible changes to habitat or habitat quality or an increase in anthropogenic influences.
>
> It has previously been thought that bushland reserves (including DERM protected area estate such as Venman Bushland National Park and Daisy Hill Conservation Park) and large relatively intact areas of bush would 'secure' koala populations in the long term; however the results of this survey have indicated that these bushland areas are not protected from the consequences of the threatening processes affecting other koalas in the region."

[5] Environmental Defenders Organisation EPBC Review Information Evening No. 1 -presented by Revel Pointon, accessed 9.04.2020 https://www.edo.org.au/the-epbc-act-review-2020/

And in the same report:

> "In the absence of conserving a viable urban koala population, adjacent bushland koala populations will continue to decline with consequences for the viability of the entire Koala Coast koala population."[6]
>
> More recent studies have also pointed to the need for koala protection in urban areas:
>
> "The existing set of protected areas, for historical reasons mostly situated on infertile soils and escarpments rather than fertile, well watered lands, cannot provide insurance for the long-term recovery of koala populations in human-modified landscapes. Expanding the protected area network is not enough to conserve the koala population; the koala has to co- exist with human development if it is to survive as a species."[7]

An even more recent (2019) study of koalas in the Toondah Harbour area of Cleveland (part of the Koala Coast) radio-tracked 8 koalas in an area that has been urbanised for 150 years. In spite of being in an urban area, there are many large good quality habitat trees on the red soils of the fertile, well-watered coastal corridor. The researchers were surprised at the number of healthy koalas found in the area:

> "The Toondah Harbour PDA contains a locally significant population of urban koalas. In addition to the eight koalas that were telemetrically monitored, repeated sightings of non-monitored koalas (many with unique identifying features) indicated that there were at least 10 resident koalas using habitat in the area encompassing the Toondah Harbour PDA. The koalas were relatively healthy, with a high fecundity. The offspring of these koalas will further contribute to the viability of the local Population.
>
> This study highlighted the importance of single trees and complexity of habitat to urban koalas living in highly fragmented landscapes. Koalas used over 30 species of food and shelter trees and readily used trees in plantings that were less than 10 years old. Street trees provided a valuable food resource and linkages to other habitat in the landscape."[8]

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[6] State of Queensland (Department of Environment and Resource Management) 2009, Decline of the Koala Coast Koala Population: Population Status in 2008

[7] Clive McAlpine, Daniel Lunney, Alistair Melzer, Peter Menkhorst, Stephen Phillips, David Phalen, William Ellis, William Foley, Greg Baxter, Deidre de Villiers, Rodney Kavanagh, Christine Adams-Hosking, Charles Todd, Desley Whisson, Robyn Molsher, MicheleWalter,Ivan Lawler, Robert Close 2015. *Conserving koalas: A review of the contrasting regional trends, outlooks and policy challenges*. Biological Conservation 192, Elsevier.

[8] de Villiers, Deidré, Debbie Pointing, Ken Rawlins, Jo Loader and Jon Hanger. 2019 Toondah Harbour Koala Tracking Project, 2018,.Accessed from Koala Action Group website http://koalagroup.asn.au/

In the light of such research, the ineffectiveness of the 'koala habitat assessment tool' in protecting koalas becomes remarkably obvious. None of this healthy, reproducing group of koalas or their trees have any degree of protection under the EPBC Act. Koalas are perhaps unusual in that their requirement for good quality food resources outweighs the simplistic human perceptions of what their habitat should look like.

Economic costs

In considering the issue of costs, the review needs to look beyond the departmental operational costs and costs relating to project approval processes. The review needs to ask what the economic, social and opportunity costs (including the losses of environmental assets without dollar values) are from the failings of the Act to meet its objectives.

Discussion of the EPBC Act too often focuses on project approval timeframes and costs, without any serious consideration of environmental externalities and values over the medium and long term. For example, the suggestion that EPBC Act causes 'unreasonable delays' needs to be examined further. This does not just involve looking at the length of the whole of the process but also at the adequacy of the assessment reports and delays by proponents in responding to information requests etc.

Question 7: What additional future trends or supporting evidence should be drawn on to inform the review?

Climate change, as a threatening process is the biggest trend that is already affecting biodiversity as noted above in the quotes from the State of the Environment Report 2016. This trend has been painfully obvious in the extreme weather events, including the hottest, driest year prior to spring 2019 that left our forests in a tinder dry condition, vulnerable to the catastrophic fires which ensued. Climate change should be considered in the assessment process to both protect biodiversity and minimise greenhouse emissions. The link between large-scale vegetation clearing and lower rainfall should also be considered.

In a changing climate, it is likely that the range of the koala will contract from the western parts of its range towards the milder coastal regions as suggested by McAlpine *et al.* 2015:

> "In south-west and central Queensland there have been substantial declines in populations over the past 10 years, due to land use pressures, extended drought and heatwaves (Fig. 1). These populations are particularly vulnerable to projected changes in climate, including drought and heatwaves (Seabrook et al., 2011; Adams-Hosking et al., 2012). Recent surveys estimate an 80% decline in koala numbers across the Mulgalands bioregion, from a mean of 59,000 (range 44,900 to 69,500, 95% confidence intervals) in 1995."[9]

[9] Clive McAlpine, Daniel Lunney, Alistair Melzer, Peter Menkhorst, Stephen Phillips, David Phalen, William Ellis, William Foley, Greg Baxter, Deidre de Villiers, Rodney Kavanagh, Christine Adams-Hosking, Charles Todd, Desley Whisson, Robyn Molsher, MicheleWalter,Ivan Lawler, Robert Close 2015. *Conserving koalas: A review of the contrasting regional trends, outlooks and policy challenges*. Biological Conservation 192, Elsevier.

This indicates that greater protection should be given to koala habitat in coastal areas in South East Queensland if there is any prospect of conserving koalas into the future.

Question 8: Should the EPBC Act regulate environmental and heritage outcomes instead of managing prescriptive processes?

Once again, it should not be one or the other as they are intrinsically linked. Outcomes are important and should be measured but without the prescriptive processes they are unlikely to be achieved.

Question 9: Should the EPBC Act position the Commonwealth to take a stronger role in delivering environmental and heritage outcomes in our federated system? Who should articulate outcomes? Who should provide oversight of the outcomes? How do we know if outcomes are being achieved?

Checks and balances are vital in any successfully operating system. There are numerous examples from the past where priceless environmental assets would have been destroyed if it had not been for Federal intervention (for example Fraser Island and the Tasmanian wilderness). The Commonwealth Government is ideally situated to have the perspective (and the international treaties responsibilities) to oversee the environmental and heritage outcomes.

There are a variety of ways these checks and balances can be delivered - ideally a combination of all levels of government, the community and private interests can spread the costs and responsibilities. The now defunct WaterWatch initiative is an example of how community volunteers can become involved and gain the necessary expertise to monitor water quality. Similar initiatives with 'citizen scientists' monitoring birds and koalas have proved successful.

Question 10: Should there be a greater role for national environmental standards in achieving the outcomes the EPBC Act seeks to achieve? In our federated system should they be prescribed through:

- Non-binding policy and strategies?
- Expansion of targeted standards, similar to the approach to site contamination under the National Environment Protection Council, or water quality in the Great Barrier Reef catchments?
- The development of broad environmental standards with the Commonwealth taking a monitoring and assurance role? Does the information exist to do this?

The lack of clear and consistent national environmental goals, standards, indicators and data is a major barrier to effective environmental decision-making in Australia.

The Act should require the establishment of national goals to achieve positive environmental outcomes under rolling National Environment and Sustainability Plans (National Plans).

National Plans would establish short and long-term environmental goals, standards, indicators and reporting to inform policy and decision-making, including for biodiversity conservation, air, land and water management (among other things). For example, biodiversity goals could include specific aims to:

- prevent extinction of native species and ecosystems;
- meet goals in recovery plans; and
- integrate and assess 'ecosystem services' and values in all levels of decision- making.

The goals should be specific. For example, no loss of species, no reduction in ecosystem extent beyond a particular limit (or recovery if already below standard), no detrimental/negative change in ecological character of Ramsar wetlands or the Great Barrier Reef.

National Plans would enable Australia to develop a shared environmental vision and a level of continuity and coordination beyond the political cycle. Reviews and updates would give National Plans the flexibility to adapt to emerging threats and new opportunities to mainstream sustainability.

To achieve this, the Act should set out processes to develop and implement National Plans, including requirements to set national environmental goals based on the best available science, and statutory duties to ensure non-regression and continuous improvement of environmental goals.

The Act must also require processes and oversight to ensure that nationally-agreed environmental goals and standards are given effect where necessary in Commonwealth, state/territory planning, environmental and natural resource management laws. Non-binding policy or guidance alone has proven insufficient to ensure environmental outcomes. Incentives and sanctions must ensure a highest common denominator standard is met across the jurisdictions.

Question 13: Should the EPBC Act require the use of strategic assessments to replace case-by-case assessments? Who should lead or participate in strategic assessments?

Case-by-case assessments are necessary to maintain accountability and public scrutiny of decisions. The community needs to be able to be satisfied that all processes have been correctly followed and there is a sound basis for the decisions to avoid the perception of corruption.

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Question 14: Should the matters of national significance be refined to remove duplication of responsibilities between different levels of government? Should states be delegated to deliver EPBC Act outcomes subject to national standards?

Question 17: Should the EPBC Act be amended to enable broader accreditation of state and territory, local and other processes?

Measures to make national environmental law more efficient and effective are supported provided there is no reduction in levels of environmental protection and the Act demonstrably delivers improved environmental outcomes.

KAG does not support government policy to create a "one stop shop" for environmental approvals. Devolving federal approval responsibilities to states and territories is highly problematic and unlikely to achieve the desired efficiency due the difficulties of creating eight "one stop shops" and attempting to accredit state regimes that do not satisfy national standards. There are better ways to increase efficiencies without abrogating responsibilities.

The need for national leadership is essential (see question 9 discussion) and has been recognised by successive state of the environment reports. It is essential that the Australian Government retain a strong leadership role in setting standards and ensuring environmental outcomes are delivered, consistent with our international obligations.

Question 15: Should low-risk projects receive automatic approval or be exempt in some way?

- **How could data help support this approach?**
- **Should a national environmental database be developed?**
- **Should all data from environmental impact assessments be made publically available?**

Automatic approval would be too subject to misuse. We have concerns about data being used for automatic approvals. Under state laws various categories of exempt or complying development can still have significant cumulative impacts, and the use of private certifiers to 'tick off' on these developments has been problematic.

Question 18: Are there adequate incentives to give the community confidence in self-regulation?

No. The notion that a single standard can be set, following which self-regulation is possible is naive and does not have adequate regard to the fact that incremental impacts from multiple projects won't simply be additive and linear or to the fact that there will be impacts beyond which no further impacts should be permitted. There is no evidence that self- regulation regimes have adequate scope to address cumulative impacts.

There is also a significant question around the monitoring of self-regulation. Absence of an effective and active compliance regime can actually constitute an incentive for non-compliance, which in turn undermines the delivery of environmental outcomes.

Question 20: How should community involvement in decision making under the EPBC Act be improved? For example, should community representation in environmental advisory and decision-making bodies be increased?

Community engagement should be central to the Act. This would include early engagement and public participation provisions at all key stages to inform decisions under the Act. In particular:

- National Environment and Sustainability Plans;
- draft policies and standards made by the proposed Sustainability Commission;
- draft impact assessment guidelines by the proposed National EPA;
- nomination and listing of threatened biodiversity and heritage places;
- recovery and threat abatement planning;
- bioregional planning;
- strategic environmental assessments;
- project environmental assessment;
- wildlife licensing and trade;
- post-approval compliance; and
- performance monitoring and reporting.

The Act should require decisions to be informed by community engagement, including a requirement for decision-makers to take all public submissions into account, provide statements of reasons for decisions, and demonstrate how public feedback affected the final outcome.

Question 21: What is the priority for reform to governance arrangements? The decision-making structures or the transparency of decisions? Should the decision makers under the EPBC Act be supported by different governance arrangements?

The Act must include clear responsibilities for decision makers to honour the Act's aims. There must be no room for political agendas to interfere with the objects of the Act. There must be greater accountability and transparency so the public will know when the aims are being subverted.

Case study: Toondah Harbour

The Walker Group's proposal to build 3,600 residential apartments on Moreton Bay land, largely protected by the Ramsar Convention was referred to the EPBC for a second time in 2017. The Department of Environment recommended to the minister that the proposal be

declared 'clearly unacceptable'. After lobbying by the Redlands mayor (FOI 180804 Document 8) and a donation by the Walker Group of $200,000 to the Federal Liberal Party[10], the minister chose to ignore the departmental advice and allow the development to proceed as a controlled action. This is especially remarkable as the submission to the same referral from the Secretariat of Ramsar (Ref. No. 2017/7939) reminded the Federal Government of its obligation to promote the conservation of the Moreton Bay Ramsar Site and to consider its international responsibilities for the conservation, management and wise use of the migratory shorebirds at the site. This raises the question of the extent to which submissions are considered or whether they are just ignored.

Question 24: What do you see are the key opportunities to improve the current system of environmental offsetting under the EPBC Act?

Offsetting just does not work and has allowed development to go ahead on a false promise. The concept has three fatal flaws: location, time and quality. If the offset is of equivalent quality but is pre-existing, it can hardly be claimed as an offset (no net gain). If it is truly of equivalent quality it would have already have been colonised by the species and is not likely to be of any further benefit to the species. Attempts to relocate the individuals that are losing the habitat would be counter-productive to the existing populations. If the offset is land that can be rehabilitated to equivalent quality then time is the flaw. No at risk individuals can afford to wait until it is rehabilitated and will have died by the time it is ready to receive them. This is especially true in the case of koala habitat as food trees have a minimum growth time of ten years before being useful to koalas.

There are many examples of these situations which are just an attempt to allay criticism or even worse to legally allow critical habitat to be lost but are of little or no benefit to the species in question. It is no surprise that a recent world-wide study of the efficacy of offsets could not find one example of offsets achieving a no net loss in a terrestrial system.[11] Other studies have cast doubt on whether offsetting is capable of delivering successful outcomes[12]. The offsets for loss of koala habitat in South East Queensland have achieved little if any benefit to koalas.[13]

[10] Brisbane Times 1.2.2017 https://www.brisbanetimes.com.au/national/queensland/cleveland-harbour-developers-political-donations-revealed-by-aec-20170201-gu32gx.html

[11] Zu Ermgassen et al. 2019, The ecological outcomes of biodiversity offsets under 'no net loss' policies: A global review. *Conservation Letters*

[12] M. Maron et al., '*Faustian bargains? Restoration realities in the context of biodiversity offset policies', Biological Conservation* Vol. 155, Oct. 2012, pp 141-148, at: *https://doi.org/10.1016/j.biocon.2012.06.003.Conservation Letters*

[13] Professor Frank Carrick January 2020 Public Presentation "Advance to the Rear!"

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Case study: The black-throated finch

The critically endangered black-throated finch prior to 2000 had become extinct in 80 per cent of its previous range due to loss of habitat mostly through agriculture and grazing.[14] The last remaining stronghold of the species is in the Galillee Basin where 5 coal mines have already been approved by state and federal governments. These will totally remove the high quality black-throated finch habitat. The offset accepted by the federal government fails on all tests: it is not equivalent habitat (or it would already contain an equivalent population) and it will take time to rehabilitate to high quality habitat (clearing has already started on the Adani site). But worst of all there are no plans to rehabilitate the site as the approved Adani management plan states that cattle grazing will occur on the offset sites. Cattle grazing causes loss of the native grasses which is the food of the finch and is one of the primary threatening processes that has driven the black-throated finch to near extinction.

The Act should definitely not permit biodiversity offsetting of impacts on critical habitat, endangered or critically endangered species and ecological communities. This recognises that some assets are too significant (or outcomes too uncertain) to offset. This approach also reinforces incentives to conserve species at a landscape scale to avoid extinction risk in the first place.

Conclusion

The evidence is incontrovertible - the EPBC Act is not helping to stem the slide towards extinction of listed species. It seems incapable of slowing down the amount of vegetation loss in areas of endangered species habitat. It is effectively a 'toothless tiger' purporting to protect at risk species while allowing damaging developments to be approved as long as the applicants have 'jumped through the hoops' and given the appearance of protecting species. We have seen a truly ineffective koala protection tool that has led us to the unthinkable position that we might actually lose the icon of Australian fauna, the koala.

We look forward to seeing a review that will lead to an act that really achieves its objects and really protects our unique environment for future generations to enjoy.

Yours sincerely,

Lynn Roberts BSc (AES)

(Vice President KAG)

[14] Simmonds, Reside, Stone, Walsh, Ward, Marron, 2019 "Vulnerable species and ecosystems are falling through the cracks of environmental impact assessment", Conservation Letters

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February 19, 2020

Redland City Council

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Dear Sir/madam,

Comments to the Redlands Coast Regional Sport and Recreation Precinct Draft Master Plan

The Koala Action Group (KAG) thanks you for the opportunity to provide feedback on the Redlands Coast Regional Sport and Recreation Precinct draft master plan.

Our group has concerns about the proposed uses for the Heinemann Road site and grounds for these concerns are outlined below:

Regional Ecosystems

The northern part of the property is only partially cleared and contains substantial numbers of scattered trees that will be removed for the playing fields, roads, club houses and other infrastructure such as sewerage systems.

The 'pre-clear' vegetation mapping shows most of the site covered by Endangered Regional Ecosystem 12.11.23/12.11.27 (90/10).[1] These RE's include: *Eucalyptus pilularis* open forest on coastal metamorphics and interbedded volcanics and *Eucalyptus racemosa* subsp. *racemosa* and/or *E. seeana* and *Corymbia intermedia* woodland on metamorphics +/- interbedded volcanics.

The suggested land uses in the master plan proposes to remove all these trees and replace them along edges and roadways with common trees chosen for their shade and aesthetic appeal.

The endangered regional ecosystem in the southern part of the property is likely to also suffer degradation from the proposed medium impact uses such as mountain bikes and horse-riding. As has been demonstrated in many other reserves, mountain bikes often build their own trails and jumps.

This is perfectly illustrated in the photograph on page 40 of the Master Plan which shows the kind of steep track that appeals to mountain bike riders and the environmental damage caused by erosion.

It should be noted that Brisbane City Council do not allow bike riding in most of their conservation areas as they recognise the negative impacts caused to the environment.

Horses also cause issues with weed introduction through their dung and grazing at the edge of tracks where many sensitive plants such as orchids grow.

[1] RegionalEcosystemsMap20200212164088970000

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Old Growth Trees

Some of the scattered trees are of great significance both to fauna and of historical interest to the Redlands because of their age.

As stated in the Master Plan*: **"These large trees include Eucalyptus tereticornis and Eucalyptus pilularis specimens that often support hollows. In the central and north-west portions of the site, a number of these eucalypts are some of the largest examples within the Redland area."**[2]*

Potentially some or all of these trees are found in the area identified for the intensive use of bikes – "Bike activity sub-precinct".

Old growth trees are notoriously sensitive to disturbance and would be negatively impacted and unlikely to survive in the long term.

Impacts on koalas

The loss of the many scattered trees would mean that koalas would need to spend more time on the ground putting them at greater risk to threats such as dog attack. As discussed in the next point, koalas like other fauna, move in ways that seem incomprehensible to human logic.

The value of scattered trees for koala habitat has been shown in many studies including White (1994)[3] and the many radio-tracking koala studies in the Redlands.[4,5]

The figure in the Master Plan showing the koala hits on the surrounding roads is very telling. The massively increased traffic to access the proposed sport precinct would all have to pass through these areas, increasing the likelihood of not only koalas but also significant increases in all other fauna road deaths. The prospect of increased night traffic would be especially damaging and is not acceptable in designated fauna corridors.

[2] "Redlands Coast Regional Sport and Recreation Precinct Master Plan" page 18
[3] White, N.A.1994. "Habitat Utilisation and Population Dynamics of the Koala (*Phascolarctos cinereus*) in the Bremer River Catchment, South-east Queensland." Doctor of Philosophy Thesis, Department of Zoology, University of Queensland.
[4] "Patch Occupancy and Movement Patterns of Koalas (Phascolarctos cinereus) in Urban Areas of South East Queensland". 2010 Honours thesis submitted by Ms Ami Amir.
[5] "Toondah Harbour Koala Tracking Project", 2018, Deidré de Villiers, Debbie Pointing, Ken Rawlins, Jo Loader and Jon Hanger. 2019.Accessed from Koala Action Group website http://koalagroup.asn.au/

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Impacts on other fauna

According to the Master Plan: *"The site is largely mapped within a State-mapped 'Regional biodiversity corridor'. The Department of Environment and Science defines Regional Biodiversity Corridors as 'areas of ecological value to be maintained and where incremental habitat loss, fragmentation and degradation should be avoided'."*[6]

This Regional biodiversity corridor will be subject to significant "habitat loss, fragmentation and degradation" by the proposed land uses.

The old trees with hollows are especially important for gliders and hollow-dependent nesting birds. It is vital for gliders to have trees that are no more than gliding distance apart so they can reach their home trees with hollows as well as their feeding trees. This varies from less than 10 metres for smaller gliders such as Feathertail to about 25 metres for Greater Gliders.

Indigenous cultural significance

Two interesting 'finds' by the Everick Heritage investigation, of stone flakes and scar trees are reported in the Master Plan which recommends:

> "The cultural heritage results highlight that, despite vegetation clearance within the site, it still has cultural heritage value. Future disturbance activities in the areas of known heritage and the high risk areas should be avoided…"[7]

One of these "high risk" areas is the north east corner of the site. According to the Master Plan, this area is totally obliterated by playing fields.

Impacts on waterways

The massive amount of earthworks to create the north-eastern flat playing fields and all the ancillary works for carparks and roads cannot avoid having a seriously damaging effect on the Eprapah Creek Catchment.

This proposal involves significant removal of scattered vegetation and would cause increased runoff from the flat surfaces and hardened areas exacerbating flooding and diminishing the flow of the creek in times of drought.

[6] "Redlands Coast Regional Sport and Recreation Precinct Master Plan" page 21
[7] "Redlands Coast Regional Sport and Recreation Precinct Master Plan" page 28

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Site suitability

The proposed location is quite isolated with no access to public transport ensuring reliance on private vehicles.

Safety aspects with regards to high fire danger and flood prone areas must be considered when large groups of people are gathering with only one road in and out of the area.

Costly land resumptions and road upgrades in the future to deal with traffic and access issues.

Costly sewerage plant requirements and unresolved issues on how to deal with effluent.

Alternatives to the Heinemann Rd site could be at the two master planned community sites in the southern end of the Redlands, Shoreline and Victoria Point Structure plan area. The developments should provide provisions for sporting grounds, clubhouses etc. which makes more sense for accessibility to future communities moving into these areas.

Conclusion

KAG is of the opinion that the Heinemann Rd site is unsuitable for the uses being proposed in the draft master plan. This view is shared somewhat with the Ross Planning report stating on P.41, *Additional considerations – "Heinemann Rd is not the preferred location for a feature rectangular field facility with premier grandstand seating given its location away from business districts, residential areas and a range of public transport options; Heinemann Rd is not considered a potential venue for indoor sport and recreation development, aquatic facility development nor community development centre given its southern location and lack of public transport"*

Furthermore, our group believes that the ecological and cultural values of the site will be seriously compromised by the proposed uses that include medium impact recreational activities.

To enable protection of the areas high environmental and cultural values, we feel a more appropriate use would be for lower impact tourism based activities that could include an Education/Cultural Centre to showcase the indigenous and ecological values of the area.

Yours sincerely,

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