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Winners of the 2007 Queensland Rivercare Award

18th December 2008

Secretariat
Independent review of the EPBC Act 1999
GPO Box 787
Canberra ACT 2601
Australia

To whom it may concern,

Submission to the Independent review of the *Environment Protection and Biodiversity Conservation Act 1999*

The Mary River Catchment Coordinating Committee made a considered submission to the recent Senate Inquiry into the EPBC act. We would like the matters raised in that submission to also be considered as part of the independent review of the Act which has been commissioned by the Federal Minister. A copy of the MRCCC senate submission is attached.

Please contact us if you require any more information. We would be very happy to assist in the review process.

Yours sincerely,

**Paul Marshall
Chair
MRCCC**

*The MRCCC gratefully acknowledges the support of
The Sunshine Coast Regional Council, Gympie Regional Council and Fraser Coast Regional Council,
the Burnett Mary Regional Group, the National Landcare Programme, the Australian Government Envirofund,
the Department of Main Roads, the Worldwide Fund for Nature, Powerlink
and landholders throughout the Mary Catchment.*

DONATIONS TO THE MARY CATCHMENT PUBLIC FUND ARE TAX DEDUCTIBLE

The Secretary,
Senate Standing Committee on Environment,
Communications and the Arts,
PO Box 6100 Parliament House,
CANBERRA ACT 2600
eca.sen@aph.gov.au

Submission to the Senate inquiry into the operation of the *Environment Protection and Biodiversity Conservation Act 1999*

The Mary River Catchment Coordination Association is a very active Integrated Catchment Management organization with a committee representing 25 government, industry and community sectors within the Mary Catchment (the MRCCC). The MRCCC has been nationally recognized for the development and ongoing successful implementation of the Mary Catchment Strategy and the Mary River and Tributaries Rehabilitation Plan. These documents outline a 50 year strategic vision and planning framework for a creating a sustainable and productive future for the river system and were developed in active partnership with the Queensland Government, local communities and industry. Throughout a long history of working with the national and international scientific community the MRCCC has amassed considerable technical and scientific knowledge about the Mary Catchment, and has built a strong network of active community support throughout the region. It is from this background the MRCCC wishes to make some brief comments on the following issues as a contribution to the inquiry.

Assessment of cumulative impacts

By their nature, groups like the MRCCC have the ability to observe and monitor the cumulative environmental impacts of a large number of developments throughout the catchment over a long period of time. In contrast, each new action in the catchment is assessed under local, State and Federal environmental laws as a separate project.

In our experience, the cumulative impacts which result from a range of actions undertaken by a number of different proponents over a period of time are not handled very well by the EPBC Act as it currently operates. Proponents of very large projects are aware of this, and tend to split large projects with large impacts into a number of smaller actions for assessment purposes. An example from the Mary River is the suite of new water infrastructure developments which propose to source urban water from the catchment. These are clearly outlined in the SEQ water strategy as a suite of actions which are intrinsically interconnected. The economic and water supply case for them is presented as an integrated whole. However, the assessment of their environmental impact is being conducted in a piecemeal fashion, as a series of separate actions and assessments under the Act.

Role of community-based groups

Community-based action is the essential ingredient for achieving on-ground change in the management of Australia's natural resources. The amount of volunteer and landholder time, effort and capital contribution, and the willingness of professional staff to work passionately for comparatively low wages and little or no job security is not adequately recognized in the formulation of policy. The ability to deliver strategy and policy outcomes which are in line with the intent of the EPBC act is entirely dependent upon maintaining a direct, long-term, personal network of connections with land managers and the community in general. Maintaining stable community-based organizations at the local level is the best way of achieving this critical link.

Compliance with and enforcement of approval conditions

We would like to comment on the approval conditions placed on the Paradise Dam on the Burnett River in Queensland. This is relevant to our catchment because it is the last project undertaken by the effective proponents of the proposed dam at Traveston Crossing in the Mary, and it is being referred to as a model for many of the mitigation measures proposed. A number of State imposed conditions were placed on the approval of the project, along with several additional Commonwealth approval conditions. A federal audit has been conducted on this project which demonstrated clear non-compliance with a number of the EPBC approval conditions, and the creation of a new determination of 'partial compliance'.

Although several of the State-imposed conditions have not also been effectively implemented, these were not considered at all in the Federal compliance audit. It would be reasonable to assume that the federal conditions were placed in addition to the assumption that the State conditions were in place.

In spite of the penalties applicable under the act for such non-compliance, no punitive action has been taken under the act against this proponent. This sends a clear message to proponents of similar projects in the future that the EPBC Act simply has no real teeth or consequences when it comes to enforcement.

Ongoing maintenance, support and renewal of recovery plans

In our catchment, we have observed long delays in the renewal of the Mary River Cod Recovery Plan and in the development and implementation of the Lungfish Recovery Plan. Having plans like these in place and up-to date is an important part of ensuring that appropriate action is being taken in the recovery of these EPBC-listed species.

It is also worthwhile noting that newly-identified species are not protected under the Act in any way until their nomination is processed under the Act, which can take a very long time. A case that is relevant to our catchment is the white-faced snapping turtle (*Elseya albagula*).

The long delays in implementing and renewing recovery plans, and the assessment of new listings which may be in need of a plan are perhaps symptomatic of a shortfall in funding to support these aspects of the Act.

Use of bilateral agreements

In general, the assessment of major projects by means of bilateral agreements with the relevant State Government is a sensible procedure, which should lead to efficient use of resources in assessing projects where the State and Federal governments have overlapping jurisdiction and a common interest in furthering the aims of the act. However, in cases where the proponent has strong links to the State Government there is a clear and undeniable conflict of interest in the State Government operating in the simultaneous roles of proponent and assessor under a bilateral agreement.

Projects being delivered under the Queensland State Development and Public Works Organization Act are assessed by the State Coordinator-General as part of the EPBC bilateral agreement. In this case of Queensland Government infrastructure projects, the Coordinator-General is placed in the impossible position of being the person charged with the duty of delivering the project for the state at the same time as holding the responsibility for the assessment of the project under the EPBC Act on behalf of the Commonwealth. We believe that this creates an obvious and untenable conflict of interest.

Access to information

We have noticed a decline in access to public information that is important to monitoring and managing the impacts on MNES in our catchment. Two specific cases are access to recorded fish-kill reports provided by the Queensland EPA, (which was removed from public access in September 2006), and access to scientific quality daily stream flow data at a number of critical locations in the river (eg. the Mary River Barrage), once operation of those gauging facilities was handed over to a government-owned corporation.

Losing access to information like this makes it more difficult for community-based organizations such as ours to monitor impacts on MNES, even though we have a direct interest and an active role in the sustainable management of the catchment. It has also become increasingly difficult to access State Government technical reports on issues that are of direct relevance to community stakeholders in the catchment, and directly relate to monitoring the sustainability of management actions in the catchment.

We hope that these brief comments can contribute to the improved operation of this important Act in the future.

Jim Buchanan
Deputy Chair
Mary River Catchment Coordinating Committee