

Secretariat to the Independent Review of the EPBC Act
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18th December 2008

Dear Committee Members,

This is the Bat Advocacy NSW submission to Independent Review of the Environment Protection & Biodiversity Conservation Act 1999.

The objectives of the Act are clear and are to be commended. In practical terms, the operation of the Act has resulted in outcomes that are not consistent with the stated objectives. Within that context, we have a number of comments.

- EPBC Act does not provide protection in instances where the cumulative impact of a number of actions that individually fall below the threshold of 'significant impact' might trigger a referral. An example is the NSW state policy that allows for licenses to be issued to orchardists for the culling of the grey-headed flying fox as a crop protection method despite the species having been listed as vulnerable. In isolation, no single permit represents a significant impact but no mechanism exists to test, under EPBC Act, the significance of the aggregated impact of all permits.
- The term 'significant impact' is too subjective. A clear definition of what constitutes a significant impact is required as a matter of urgency.
- The requirement for proponents to make a referral if they consider their action to have the potential for significant impact relies too heavily on the proponent taking positive action, possibly to their own detriment, in relation to matters that they have little or no understanding of. The result is that there exists too much opportunity for actions that should be referred under EPBC to not be referred.
- The public comment period of 10 days on referrals is inadequate for large, complex referrals.
- There is a lack of consistency between state legislation/policy and EPBC Act which should be addressed to resolve overlaps and ambiguities.
- Species recovery plans are an important part of the EPBC process but many are still listed as 'in progress' despite the species in question having been listed as threatened for many years.
- EPBC Act does not allow for the state government policies or plans to be referred under EPBC. An example is the NSW state policy, noted

above, that allows for licenses to be issued to orchardists for the culling of the grey-headed flying fox as a crop protection method.

If any of these comments require clarification, please do not hesitate to contact me.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Nick Edards', with a large, sweeping flourish extending to the right.

Nick Edards, Bat Advocacy NSW