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SUBMISSION ON THE EPBC ACT

Many of these comments arise out of direct experience in Tasmania with a particular emphasis on ornithology but no doubt have wider applicability. One of the issues raised in the Discussion Paper (Q 14) asks if duplication between Commonwealth and State listing regimes provides additional protection for threatened species. A brief answer is that it makes no difference if there are exemptions under the Act. Much has been made in the press and elsewhere of the 'Battle for Wielangta' which in essence involved legal argument in two appeals as to whether or not there lies within Regional Forest Agreements an obligation to protect. If the RFA was ever intended to protect endangered species then it required precise wording to make that intention clear and unassailable. If no obligation was intended, then this also should have been made clear beyond ambiguity. In the aftermath of the legal challenges which offered hope, then hope betrayed, it is clear now that the only beneficiaries are the legal teams – certainly not the endangered species which formed the subject for appeal.

As the situation now stands, the process of listing the Wielangta Stag Beetle, the Swift Parrot and the Wedge-tailed Eagle, as far as the Wielangta Forest is concerned, is an exercise in futility. If the EPBC Act cannot afford protection in a threatened species core area when that area falls within a timber harvesting zone, then the RFA becomes an enormous impediment to the operation of the Act. An Act which operates in some circumstances and not others is not likely to gain public confidence. Exemptions under RFA should be scrapped.

At present the discovery of breeding Swift Parrots in a section of forest scheduled to be logged has been 'saved' by the Tasmanian Forest Practices Board – but only for this season. Next year this coupe may be logged depriving that area of both a food source and nesting hollows. Ecosystems do not operate on numbered coupes. The idea for short term protection is ludicrous. A sad irony is that a lot of background work has been done on whole-of-landscape assessment under the Swift Parrot Recovery Plan – partly Commonwealth funded. If exemptions were removed from the RFA, then the Commonwealth would be able to address incremental destruction of habitat outside the area of current contention (logging of prime habitat on Bruny Island for example). Clearly long-term surveys and assessment are still needed for Wielangta and beyond. An application for funds to do just that has recently been refused at Federal level by the Caring for Country administration. Apparently reasons for refusal are not disclosed.

As a general observation a major weakness of the Act is that it concentrates on 'significant' impacts from a single proposed development in isolation. The cumulative loss of small areas of forest, wetlands and coastal salt marsh probably contribute more to species decline than any single large development. If the losses to development over the last 20 years had occurred in only a 12-month period there would have been a national outcry. The Act does not provide an effective regulatory framework for the Conservation of Australia's biodiversity and never will unless cumulative losses are addressed, nor will we ever approach intergenerational equity.

In the section dealing with protected areas under the Act, several categories are listed – Ramsar wetlands and others which are also mentioned in DEWHA Guidelines for Windfarms. It is worth mentioning a new category of important sites for birds, the Important Bird Area. IBAs are sites recognised as internationally significant for bird conservation. Birds Australia, in partnership with Rio Tinto, has undertaken to designate IBAs in Australia following the UK, EU, USA and many other countries. Although IBAs indicate high value for bird conservation and have to meet strict criteria for listing, they impose no legal constraints. Even so, IBAs deserve a mention in industry guidelines so that developers are encouraged to find out (in this case from Birds Australia) if an area under consideration is an IBA. IBAs fit well with the concept of natural heritage. It is recognised, however, that the publication of industry guidelines is a policy decision, and not part of the Act.

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