

Friends of Grasslands

supporting native grassy ecosystems

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Christine McDonald
Secretary
Standing Committee on the Environment and Communications
Legislation Committee
GPO Box 6100
Parliament House Canberra ACT 2600
email: ec.sen@aph.gov.au

Dear Ms McDonald

Inquiry into the Environment Protection and Biodiversity Conservation Amendment (Bilateral Agreement Implementation) Bill 2014 and the Environment Protection and Biodiversity Conservation Amendment (Cost Recovery) Bill 2014

Friends of Grasslands (FOG) is a community group dedicated to the conservation of natural temperate grassy ecosystems in south-eastern Australia. FOG advocates, educates and advises on matters to do with the conservation of grassy ecosystems, and carries out surveys and other on-ground work. FOG is based in Canberra and its members include professional scientists, landowners, land managers and interested members of the public.

In principle FOG does not oppose the creation of a single assessment and approval process for actions impacting on matters of national environmental significance. It does have some concerns, however, with the bilateral agreement for the ACT; these are set out in the attached submission to Regulatory Reform Taskforce (24 April 2014). FOG's comments on the Bills under review are set out below.

Potential impacts of delegation

The potential exists for inconsistent decision-making across states and territories on matters of national environmental significance, especially in relation to water, mined resources and threatened species and communities since none of these may be neatly confined within state and territory borders. The mechanism for making decision about controlled actions which cross state boundaries has the potential to be time consuming and ineffective.

Maintenance of high environmental standards

Similarly, the potential exists for inconsistent standards across states and territories. The absence of a policy on environmental offsets, for example, is a concern in relation to the ACT.

Adequate public consultation and transparency of State and Territory process and decision making in relation to proposed actions will be vital. FOG has concerns about the potential for conflicts of interest. The ACT government for example, not only has a conservation role, but also both owns the land put up for development, runs the land development agency and stands to benefit (in terms of income) from land sales to developers.

Benefits of streamlining processes

A streamlined process has the potential to generate savings for all parties. Consideration must be given to allocating any Commonwealth/State savings towards the maintenance of high environmental standards generally, not just to matters of national significance. Savings to proponents of controlled

actions will hopefully offset costs of ensuring good environmental outcomes and encourage environmentally sound actions from the outset.

Potential impacts of cost-recovery

Payment up front before any action can be considered and a decision made should enable the Commonwealth, State or Territory to allocate appropriate resources to the task. It may also encourage environmentally sound development; a proponent of an action is unlikely to pay up front unless the proposed action is likely to be approved.

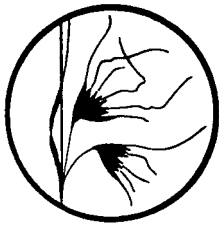
The fee structure should be such that it not only covers the cost of decision-making but also of monitoring, for example, of action management plans and ensuring compliance.

Yours sincerely

Sarah Sharp
President

27 May 2014

Encl. Letter 24 April 2014 to Regulatory Reform Taskforce concerning Draft ACT bilateral agreement



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Regulatory Reform Taskforce
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Dear Sir/Madam

Draft ACT bilateral agreement

Friends of Grasslands (FOG) is a community group dedicated to the conservation of natural temperate grassy ecosystems in south-eastern Australia. FOG advocates, educates and advises on matters to do with the conservation of grassy ecosystems, and carries out surveys and other on-ground work. FOG is based in Canberra and its members include professional scientists, landowners, land managers and interested members of the public.

In principle FOG does not oppose the concept of a “one stop shop” for environmental approvals – it would rather see resources going into on-ground conservation rather than duplication of assessment processes. However, we do have some concerns about the draft bilateral agreement.

One change FOG noticed with the new draft agreement is the narrowing of the aims to those relating to matters of NES. The old bilateral agreement includes in its aims “protecting the environment” and “promoting the conservation and ecologically sustainable use of natural resources”. The objects of the new draft agreement only refer to Australia’s “international environmental obligations” and that “matters of NES are protected as required under the EPBC Act”, i.e. the concept of general protection of the environment has disappeared. FOG would argue that this should remain in the agreement. While the focus tends to be on endangered species and communities, FOG’s view is that we need to remain cognizant of broader environmental issues if we are not to end up with more widespread species and communities on the endangered list in years to come.

In object H the document notes that “the parties will work together so that conditions attached to Commonwealth approvals are strictly limited to matters not addressed in ACT assessments and approvals”. A concern that FOG has in limiting approvals in this way is that the ACT government in fact has a conflict of interest in undertaking ACT assessments and approvals. Unlike the States, the ACT government not only has a conservation role, but also both owns the land put up for development, runs the land development agency and stands to benefit (in terms of income) from its sale to developers. In the States, the latter role is generally at the local government level whereas general conservation strategies and development approvals affecting higher quality areas are at the State level. While the list of information the assessment reports are to include (e.g. in paragraphs 6.3) is extensive and comprehensive, FOG remains concerned that there may be subtle biases in the material presented that benefit commercial interests rather than conservation, particular if the political environment within the ACT government changes over time.

In relation to this, FOG supports the “provision of industry data from assessment documentation to the public” (paragraph 6.4 (d)). This type of initiative may assist in allaying our concerns as outlined in the previous paragraph over time.

Under paragraph 6.3 (b) (ii D) there is reference to a “conservation dependent species”. However, there is no definition of this term in the agreement, and FOG is uncertain as to exactly what it refers to.

In relation to the assessment report (paragraph 6.3 (b)), one omission is that of information about connectivity issues. Since connectivity of high quality habitat, or lack thereof, can play a major role in the long term survival of species, FOG’s view is that the assessment report should also contain information about the impact of the impact of the action on areas that might be outside the development site itself but adjacent or close enough to provide connectivity between the development site and other conservation areas. In this regard it is important to note that, depending on the species involved, areas providing such connectivity may be of lower quality but still be essential in allowing species to move between areas of good habitat (e.g. allowing dispersal of young and movement in response to seasonal or other variations in conditions).

In relation to public access to assessments (paragraph 7.2), one advantage of the current EPBC website is that all assessments are in the one place, and that all information relating to an assessment is held together and remains on the website after a decision is made about the development proposal. This is useful when an issue concerning the initial approval comes up at a later time (e.g. when looking at offsets) or when a later development proposal affects a site or areas immediately adjacent to it. At present, while requests for consultation by the ACT government are now published in the one place on the web, older documents are not available, and background information can be in multiple places and difficult to find once the initial consultation period is over. Making such information “available to the public” needs to include some central location or other easy way to find it. FOG requests that this be part of the administrative arrangements of this agreement.

In relation to the reference to a consultation period of “at least 28 days” in Schedule 1, paragraph 3.3, this needs to take account of the time of year, in particular the number of working days in the proposed consultation period. A 28 day consultation period that includes Easter or the Christmas break is unrealistic, as many interested community groups and individuals are likely to be away or occupied with family matters (remembering that the community responds to requests for comment as volunteers and in addition to normal activities). A minimum consultation period of four working weeks is much more realistic, particularly as community groups may have several issues they wish to respond to at a particular point in time.

Yours sincerely

Sarah Sharp
President

24 April 2014