

Secretariat of the Convention on Biological Diversity
Cc: Australian National Commission for UNESCO

6th August 2009

Dear Sir/Madam,

I am writing to draw your attention to a case that reveals an unacceptable weakness in current Australian legislation which fails to adequately protect biodiversity in IUCN category VI protected areas that make up the National Reserve System (NRS) from mining activities. I believe this issue throws into question Australia's commitment to meeting its obligations under the Convention on Biological Diversity.

Currently at risk is nearly 8000 hectares (ha) of intact woodland ecosystems on Bimblebox Nature Refuge in central-west Queensland, which is threatened due to plans for a proposed massive open-cut coal mine. Waratah Coal Pty. Ltd. has been conducting coal exploration on Bimblebox Nature Refuge and surrounding properties over the last couple of years, and is currently engaged in the preparatory stages of an Environmental Impact Assessment. Waratah Coal has not yet received formal government approval for their proposed mine, rail and port development, but nor is there any guarantee that Bimblebox Nature Refuge, or any other nature refuge in Queensland underlain by minerals, will be excluded from large scale mining operations.

As one of the first protected areas in Australia to face potential destruction from mining activities I request that the Secretariat confer with the relevant Australian state and federal ministers (names and contact details provided at the end of this letter) over this matter to clarify whether large scale mining will be allowed on category VI protected areas. More than 2.6 million ha of category VI private protected areas throughout Australia, increasingly vital in the NRS, are vulnerable given the current lack of protection from large scale mining. This is an issue of particular concern in Queensland where there are large reserves of coal and natural gas and a state government eager to see new mines developed.

Australia and the Convention on Biological Diversity

On ratifying the Convention on Biological Diversity (CBD) in 1993, the Australian government promised to establish a National Strategy for the Conservation of Australia's Biodiversity, and a network of protected areas to make up the NRS. The NRS is primarily composed of government owned land (over 80% of the total NRS area)¹, but there is an increasing trend to include more private land with high biodiversity values in the NRS, so that such areas now cover more than 2.6 million hectares. With 70% of Australia's land area held under private freehold, leasehold or indigenous titles, engaging such landholders is a vital component of the response to the continuing decline of Australia's biodiversity.

¹ <http://www.environment.gov.au/parks/nrs/about/ownership.html>

According to the Australian federal government, a protected area within the NRS is a ‘clearly defined geographical space, recognised, dedicated and managed, through legal or other effective means to achieve the long-term conservation of nature with associated ecosystem services and cultural values’². It is stated that one of the foundations of systematic conservation planning in Australia is through establishing a ‘secure comprehensive, adequate and representative protected area system’³. There is a set of minimum standards that protected areas must meet for inclusion in the NRS. These include:

- The land must be covered by an effective covenant with effective legal means to guarantee its perpetual conservation
- The area must meet scientific criteria and strategically enhance the NRS through meeting comprehensive, representative and adequate (CRA) guidelines
- The area must be managed to protect and maintain biological diversity according to one of the six IUCN classifications for protected areas
- If a property is acquired through with the assistance of NRS funding, a further set of guidelines and processes must be followed⁴

Considering the stringent guidelines for inclusion and management of land within the NRS, it is a blatant anomaly for large scale destructive mining activities not to be excluded from the NRS.

Of great concern is the Queensland government’s apparent disregard for its own conservation goals and its contravention of the management guidelines offered by the IUCN. Referring to IUCN category VI protected areas that have been acquired with the assistance of NRS funding, a federal government document states that:

Every effort should be made to reduce and remove uses that are counter to the nature conservation objective.... The IUCN has provided guidance on this issue and suggests that these non-nature conservation uses do not occupy more than 25 percent of the protected area.⁵

According to the IUCN guidelines for category VI protected areas ‘management should be undertaken by public bodies with an unambiguous remit for conservation’⁶. Clearly, the IUCN objectives of management would not allow large scale destructive mining activities:

- o to protect and maintain the biological diversity and other natural values of the area in the long term;
- o to promote sound management practices for sustainable production purposes;
- o to protect the natural resource base from being alienated for other land-use purposes that would be detrimental to the area's biological diversity; and
- o to contribute to regional and national development.

A description of Bimblebox Nature Refuge is outlined below to illustrate how contradictions in current Australian policy manifest in significant time and money being invested by governments and private landholders in the NRS without affording these areas adequate protection from significant disturbance from mineral exploration and mining.

² <http://www.environment.gov.au/parks/nrs/about/management.html>

³ P14, ‘Australia’s Strategy for the National Reserve System 2009-2030’, available at <http://environment.gov.au/parks/publications/nrs/nrsstrat.html>

⁴ <http://www.environment.gov.au/parks/nrs/about/management.html>

⁵ Pages 6-7, ‘National Reserve System: Plan of Management Guidelines’, <http://www.environment.gov.au/parks/nrs/about/management.html>

⁶ ‘Guidelines for Protected Area Management Categories’, IUCN World Commission on Protected Areas with the assistance of the World Conservation Monitoring Centre

Bimblebox Nature Refuge

The Bimblebox property (otherwise known as “Glen Innes”) was secured in 2000, an era when Queensland’s land clearing rates were amongst the highest in the world. It was purchased with the savings of a number of concerned individuals, and around \$300,000 of NRS program funding, for the express purpose of saving it from being cleared. In 2003, the “perpetual” Bimblebox Nature Refuge Agreement was signed with the state government to “permanently protect” the conservation values of the property. This Nature Refuge Agreement (category VI Protected Area under the IUCN classification system) covers the property’s entire area. In receiving funding from the NRS program, and being covered by a perpetual conservation covenant, Bimblebox Nature Refuge became part of Australia’s protected area estate that makes up the NRS.

Bimblebox Nature Refuge is located in central-west Queensland, a large state with only 5.55% of land included in the NRS. This is the lowest proportion of protected land of any other state or territory in Australia. Nationally, protected areas cover 11.64% of the land mass⁷. There are indications that pre-election promises for the expansion of the Queensland National Parks estate to 7.5 million hectares by 2020 will not proceed, which further highlights the importance of protecting those “protected areas” that already exist.

Bimblebox Nature Refuge is a semi-arid woodland property, containing a number of significant species. A minor portion of the property had been cleared at a previous time, so that 7,632 ha (around 95%) remain as original vegetation. It is located in the Desert Uplands, a bioregion declared an Australian Biodiversity Hotspot⁸, but which contains only 2.3% of land area in reserves, and only 27% of the region’s ecosystems represented in National Parks⁹.

Bimblebox Nature Refuge is a rare and genuine example of sustainable rangeland management, and exemplary in category VI of the IUCN classification. The property is managed with a small herd of beef cattle for strategic grazing of exotic pasture grasses. Profits are returned for native habitat rehabilitation and conservation. Such examples of sustainable grazing are crucial when it is considered that many existing grazing practices are considered one of the major threatening processes affecting biodiversity and ecosystem health over 60% of the continent.

Over the last five years, Bimblebox Nature Refuge has become host to a number of long-term research projects including fourteen Birds Australia monitoring sites and other ongoing research on biodiversity and climate change impacts conducted by the Commonwealth Science and Industry Research Organisation (CSIRO), Queensland Department of Primary Industries and Fisheries (DPI&F), Environmental Protection Agency (EPA) and the Queensland Herbarium. Some of these research projects looking into the use of fire and grazing as management tools are of critical importance and are highly relevant to the whole bioregion and much of the state.

Waratah Coal began exploration in 2008, and their maps indicate an ‘identified coal resource’ that underlies all but a tiny corner of Bimblebox Nature Refuge. Given the legal priority given to mining in Queensland and other states, unless there is legislative change to safeguard the protected areas that make up the NRS at both state and federal levels, it is likely that Waratah Coal will begin to

⁷ <http://www.environment.gov.au/parks/nrs/about/ownership.html>

⁸ Desert Uplands, <http://www.environment.gov.au/biodiversity/hotspots/national-hotspots.html#1>

⁹ <http://www.anra.gov.au/topics/vegetation/assessment/qld/ibra-desert-uplands.html>

export the coal that lies beneath Bimblebox Nature Refuge and surrounding properties in the next couple of years at a rate of up to 50Mt per annum. I believe that *any* mining, with or without provisions, on Bimblebox Nature Refuge will threaten its integrity as one of the few remaining large tracts of un-cleared land in the region, and violates the agreed management guidelines for category VI protected areas.

Australian legislation

Waratah Coal's initial development proposal was rejected by federal Environment Minister Garrett in September 2008, on the grounds that the rail and port would have an unacceptable impact on the environmental values of Shoalwater Bay and the surrounding area. With a different port option detailed, in November 2008 the Queensland Government declared Waratah's proposal a 'significant project' for which an Environmental Impact Statement (EIS) is required. Early in 2009 Waratah Coal referred their second development proposal for assessment and approval under Australia's federal environmental law (Environmental Protection and Biodiversity Conservation Act) and it was deemed a 'controlled action', requiring an EIS to respond to the potential impacts it will have on a number of Matters of National Environmental Significance (MNES). The potentially affected MNES include world heritage properties, national heritage places, listed threatened species and communities, listed migratory species, and Commonwealth marine areas.

Queensland current coal exploration permits cover close to 7.5 million ha¹⁰, and the granting of permits and mining leases have increased greatly under the current state government. Given that there are around 100 nature refuges with mining exploration permits, and about half of these are for coal, it is unlikely that Bimblebox Nature Refuge will be the only protected area dug up for the sake of producing more climate changing coal. It is worth noting the striking inconsistency that mining companies are exempt from Queensland legislation introduced in 2004 which finally put an end to broad-scale clearing of remnant vegetation.

The Queensland government is apparently seeking to deal with the conflict of interest between its mining legislation and its conservation obligations by introducing an "offsets policy" for clearing vegetation of high conservation value. Land elsewhere in the bioregion is set aside for "permanent" protection under covenant agreement to compensate, which does not have to be single land parcels of the same size as the cleared land. Unfortunately there is no guarantee that the offset land could not itself be cleared for future mining. In the case of Bimblebox Nature Refuge so much land in the bioregion has already been cleared or otherwise degraded that little suitable offset land remains, certainly not as one single intact area. The conflict between mining and conservation policies is so great it threatens the viability of the NRS in Queensland as no private landowner will invest significantly in biodiversity protection if it cannot be guaranteed.

Concluding comments

In its 4th report to the CBD secretariat, the Australian federal government listed the employment of a precautionary approach to biodiversity conservation, and the goal for biodiversity not to be further

¹⁰ http://www.dme.qld.gov.au/zone_files/QGMJ/state_government_coal_production_expands.pdf

degraded by the current generation, as two of their driving principles to biodiversity management¹¹. Together with recently stated aspirations to manage and expand the NRS as a means to safeguard Australia's declining biodiversity in a future of climate uncertainty¹², current Australian policy that fails to fully protect protected areas from significant mining impacts falls badly short of these objectives.

We have written numerous letters to both state and federal governments regarding the plight of Bimblebox Nature Refuge. The Queensland Minister for Climate Change and Sustainability replied to inform us that mining of nature refuges would be considered on a case by case arrangement. This creates uncertainty and anxiety for nature refuge landowners, and discourages investment in biodiversity protection and the uptake of new conservation covenants. It also puts the nature refuge landowner in the stressful position of having to engage extensive resources in defending biodiversity on their property from mineral exploration and mining license claims.

I understand that there is genuine concern within some branches of state and federal government about this case, and the precedent that would set if the proposed mine is allowed to go ahead without protection of the NRS. I urge the CBD Secretariat to contact the relevant state and federal ministers (see over page), to clarify their position in regard to the conflict between protected areas and destructive mining activities in light of Australia's responsibilities as a signatory of the Convention of Biological Diversity. I believe both state and federal governments in Australia need strong encouragement to ensure the protection of the NRS from large scale mining operations, in line with their conservation goals in the context of declining biodiversity health and resilience in Australia.

Yours sincerely,

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Cc:

Don Henry, Australian Conservation Foundation
Greg Bourne, World Wildlife Fund for Nature
Michael Kennedy, Humane Society International
Virginia Young, The Wilderness Society

¹¹P22, <http://www.cbd.int/doc/world/au/au-nr-04-en.pdf>

¹²<http://environment.gov.au/parks/publications/nrs/pubs/nrsstrat.pdf>

Relevant Ministers

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