



Six examples of **EPBC failure**

Australia's national environment law, the Environment Protection and Biodiversity Conservation (EPBC) Act, aims to 'provide for the protection of the environment, especially 'matters of national environmental significance' and 'conserve Australian biodiversity'.

Yet Australia is a world leader in mammal extinctions. Three Australian animals have been declared extinct since 2009.

Nearly 2,000 Australian plants, animals and ecosystems are threatened with extinction. These are just the ones we know about.

In the 20-year history of Australia's national environment law, an area of threatened species habitat larger than Tasmania (7.7 million hectares) has been logged, bulldozed and cleared.

The sad truth is this legislation is not adequately protecting native species and their homes.

Here are some specific examples of EPBC failure.



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1. Toondah Harbour

Toondah Harbour is a controversial proposal to build 3,600 units inside a Ramsar-listed wetland, which is critical habitat for endangered waterbirds at Moreton Bay, Queensland.

If it goes ahead it will result in the destruction of one of Australia's most important migratory shorebird feeding and breeding habitats. The wetland is an essential feeding ground and resting place for Eastern Curlews on their long migration from Russia.

When Josh Frydenberg was environment minister, his department advised him on multiple occasions to outright reject the Toondah Harbour apartment and marina proposal because of the damage it would do to the internationally-recognised wetland.

Documents show Minister Frydenberg rejected this advice and instead sent the proposal to the next stage of assessment. Only a handful of projects have ever been rejected under the EPBC Act.

Annual returns lodged with the Australian Electoral Commission show the Toondah Harbour proponent, Walker Corporation, donated \$225,000 to the federal Liberal Party and \$23,000 to the Queensland ALP in 2015-16, the year the initial proposal was submitted for national assessment. **Documents obtained by the media** suggest Walker Corporation also engaged in a campaign of legal challenges and lobbying to keep the project alive.

The project has been referred three times under the EPBC Act, in 2015, 2017 and 2018. It is currently undergoing an Environmental Impact Assessment for its third referral.

2. Yeelirrie uranium mine

When Melissa Price was environment minister she approved a nine-kilometre wide open-cut uranium mine (in her electorate) the day before the 2019 federal election was called. The application had been on the books for a decade.

In her statement of reasons **Minister Price acknowledged that the approval could lead to the extinction of up to 12 native species**, but she went ahead with the decision anyway. The Department recommended two possible conditions for the mine. Then-minister Price chose conditions that failed to protect native species from extinction. The minister noted there was a risk this would result in the extinction of several species of stygofauna – tiny subterranean animals that have evolved to live in a very specific groundwater habitat. The statement of reasons also concedes that the Yeelirrie mine would result in the 'complete loss' of the entire western population of a rare saltbush – one of only two that exists – wiping out a third of its extent and occurrence.

3. Greater gliders found in land proposed for clearing in north Queensland

The federal government approved the clearing of 1,365 hectares of native woodland at Meadowbank Station in north Queensland, without environmental offsets, in early 2018. There is evidence senior cabinet ministers lobbied for this land clearing to be approved.

The approval excluded 106.8 hectares of woodland from the clearing permit after a survey found Greater gliders living there. The government deemed the rest of the area was not glider habitat. But in just two nights of spotlighting in June 2019 ACF's field survey found seven gliders in the woodland approved to be cleared.

ACF wrote to Environment Minister Sussan Ley in July 2019, asking her to suspend the approval under Section 144 of the EPBC Act until a full, independent on-ground assessment was conducted. We did not receive an adequate response. In September 2019, the landholder **set fire to the greater glider habitat** area. A few weeks after that, it began clearing the area. The clearing extended into areas that were supposedly set aside for protection.

In December 2019 the Department announced it was **investigating** whether the clearing was illegal. In February 2020, the Department found the **clearing was illegal**.

ACF is pleased the Department found the clearing illegal. But there is something wrong with the system if an environmental charity is relied upon to undertake the monitoring and due diligence that should be part of the Department's core business. The lack of any penalties for an alleged breach of federal approval conditions is deeply concerning as it provides almost no deterrence against future non-compliance.

4. Melbourne western grasslands

It has been a decade since the Melbourne Strategic Assessment was approved and the Victorian government, as part of the approval, committed to protect a 15,000-hectare grassland reserve by 2020.

The reserve was intended to provide a regional offset for grasslands that have been destroyed by Melbourne's urban sprawl. It would have been the biggest offset of its kind and would have protected one of the most at-risk ecological communities in the country.

But Victoria's **Auditor General** found in June 2020 the Victorian government secured less than 10% of the grasslands reserve promised under federal EPBC approval. The Auditor General also found the federal government was **taking no compliance action**. Meanwhile, the quality of the grasslands in the proposed reserve is deteriorating.

5. Paltry fine for releasing toxic PFAS into Darwin Harbour

The Australian arm of global energy giant INPEX was fined just \$12,600 by the Federal Department for breaching its environmental approval by boiling wastewater containing toxic PFAS chemicals at its Darwin Harbour plant.

Darwin Harbour is home to protected marine animals such as dugongs, rare sawfish, sea turtles and several types of dolphin, along with dozens of native bird species. PFAS is toxic to human health and is the subject of continuing court cases in Australia and the USA.

Documents obtained by ACF under Freedom of Information show INPEX boiled toxic wastewater containing PFAS at Bladin Point on Darwin Harbour in September 2018, likely releasing PFAS into the air and beyond the site. The Department's internal advice states that the offence 'may have placed the immediate environment including Darwin Harbour at risk of heightened PFAS levels.' The Department issued INPEX with a fine of just \$12,600 in April 2019. INPEX's yearly revenue is about \$US12.2 billion. There was a brief reference to the infringement on the Department's website.

6. Koala habitat destroyed in south-east Queensland

In 2018 the federal government approved two proposals to clear a total of 75 hectares of koala habitat for housing estates in south-east Queensland.

The critical koala habitat was cleared to make way for up to 900 new houses as part of the First Nine residential project at Brookwater by Springfield Land Corporation and 332 dwellings at Deebing Heights for the Defence Housing Association.

The Department, acting on behalf of the Minister, approved offsets for the Queensland housing estates even though the proposals satisfied only 17% of the Department's requirements. Documents obtained by ACF under Freedom of Information showed two housing estates in the Ipswich area 'lacked consistency' with the Environment Department's own policy on environmental offsets.

Nonetheless, the Department approved the land clearing in January 2018 'in order to maintain consistency in decision making' with other projects already given the green light. Departmental internal documents show it was not satisfied with the due diligence undertaken by proponents and considered the quality of habitat in the proposed offsets was lower than they were being led to believe. However, it asked for no further due diligence and approved the proposals.



For more information, please see
ACF's submission to the EPBC Review.

About ACF

ACF is Australia's national environment organisation. We are more than 700,000 people who speak out for the air we breathe, the water we drink, and the places and wildlife we love. We are proudly independent, non-partisan and funded by donations from our community.



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*This page. Greater glider. Photo: Doug Gimesy.
Cover Photo. Koala. Photo: Aaron Stevenson.*