



**Australian Government**

**Department of the Environment, Water, Heritage and the Arts  
Office of the Secretary**

Senator Anne McEwen  
Chair  
Senate Standing Committee on Environment,  
Communications and the Arts  
Department of the Senate  
PO Box 6100  
CANBERRA ACT 2600

Dear Senator McEwen

I refer to your letter of 20 November 2008 inviting the Department to comment on a submission from Ms Bree Jashin of Happy Valley, Fraser Island, to your Committee's Inquiry into the operation of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). I thank the Committee for providing this opportunity.

As noted in the Department's submission to the Inquiry, compliance incidents are managed in accordance with the Department's *Compliance and Enforcement Policy*. All potential breaches of the EPBC Act reported by the public are investigated under this policy.

Ms Jashin first contacted the Department on 4 March 2008 to raise concerns about the construction of fire breaks and dingo-deterrent fences around townships on Fraser Island by the Queensland Parks and Wildlife Service (QPWS). The QPWS undertakes day to day operational management of wildlife issues on the island. Ms Jashin was concerned that the works may constitute a breach of the EPBC Act.

The Department's Compliance and Enforcement Branch obtained further information from Ms Jashin, QPWS and the Department's Heritage Division (which is involved, together with the states, in the oversight of management planning for World Heritage areas) to ascertain the nature of the works and likely impacts. This was in view of the potential for the works to impact on matters of national environmental significance including the listed World Heritage values of Fraser Island and listed threatened species such as the Wallum Sedge Frog, Black-breasted Button-quail and Water Mouse.



The Department formally wrote to QPWS on 8 April 2008 to express concern about the works and to seek advice as to any assessment of significance and why the proposal had not been formally referred for consideration under the EPBC Act. The Department remained constantly in contact with Ms Jashin during this time.

QPWS responded on 21 April 2008 advising that the fencing was consistent with the *Fraser Island dingo management strategy* (QPWS, November 2001) prepared following the fatal mauling at Waddy Point on the island. The works were also part of the *Fraser Island World Heritage Area Fire Management Strategy* (QPWS, 2003). QPWS further advised that the Queensland Government had committed \$750 000 to erect dingo-deterrent fencing around Eurong and Happy Valley townships, similar to fencing already constructed at several camping areas as well as at Kingfisher Bay Resort/Village.

According to QPWS, the agency had considered that construction of the fencing and fire breaks was not likely to have a significant impact on any aspect of the World Heritage values of Fraser Island or on any other matter of national environmental significance. In this circumstance, QPWS believed that referral under the EPBC Act was not necessary.

The listed World Heritage values of Fraser Island primarily relate to the physical and biological aspects of the island. Indigenous values and dingoes (except as they relate to ecosystems) do not specifically form part of the island's World Heritage values and are not therefore protected by the provisions of the EPBC Act.

An officer from the Department's Heritage Division undertook a site inspection of some of the works on 19 April 2008. Following this inspection, the Heritage Division advised that 'though there has been some disturbance to the island's geomorphology and ecology as a consequence of construction of the fire breaks and fences the mitigation measures employed are adequate to prevent significant impact on the World Heritage values of Fraser Island'.

The Department wrote to Ms Jashin on 29 May 2008 to advise that it did not intend to pursue further compliance actions in respect of the works. This was because it was unlikely that the works could be proven to have had a significant impact on World Heritage values or other matters of national environmental significance. In the view of the Department, the weight of the available information suggested that such impacts were not likely.

The Department's advice to Ms Jashin erroneously stated that 'because the fire breaks are included in the [fire] management plan for Fraser Island, the clearing of the fire breaks is not an action that triggers a compliance response under the EPBC Act'. As noted above, and as also advised to Ms Jashin, the key test as to whether an action needs approval under the EPBC Act is whether or not significant impacts on matters of national environmental significance are likely.

The Department believes that Ms Jashin's concerns have been dealt with fairly and sympathetically. We are satisfied that a breach of the EPBC Act has not occurred.

I have gone to some lengths in responding to this issue because it is illustrative of the Department's approach to compliance incidents. Whilst a breach of the EPBC Act is not evident in this case, the process of investigation has served to educate stakeholders about the EPBC Act, including the advantages of early engagement with the Department to provide the appropriate protection to matters of national environmental significance.

Yours sincerely



David Borthwick  
Secretary

9 December 2008