



Australian Government

Department of the Environment, Water, Heritage and the Arts

STATEMENT OF REASONS FOR DECISION UNDER SECTION 158 OF THE *ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999*

I, PETER ROBERT GARRETT, Minister for the Environment, Heritage and the Arts, provide this statement of reasons under subsection 158(7) of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) for my decision under subsection 158(3) to exempt the Director of National Parks and other specified persons from the application of the provisions of Part 3 and Chapter 4 of the EPBC Act in relation to the following action:

The establishment and operation of a captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*), as recommended by the Christmas Island Expert Working Group Revised Interim Report, including but not limited to:

- immediate capture of sufficient animals on Christmas Island to establish a breeding colony;
- capture of sufficient animals on Christmas Island to maintain a breeding colony;
- construction of breeding facilities to house the animals on Christmas Island;
- movement of animals to breeding facilities that will house them outside Christmas Island;
- captive husbandry within the breeding facilities; and
- release of animals from the breeding facilities back to natural habitat on Christmas Island.

Legislation

1. Section 158 of the EPBC Act provides:

158 Exemptions from Part 3 and this Chapter

- (1) A person proposing to take a controlled action, or the designated proponent of an action, may apply in writing to the Minister for an exemption from a specified provision of Part 3 or of this Chapter.
- (2) The Minister must decide within 20 business days of receiving the application whether or not to grant the exemption.
- (3) The Minister may, by written notice, exempt a specified person from the application of a specified provision of Part 3 or of this Chapter in relation to a specified action.
- (4) The Minister may do so only if he or she is satisfied that it is in the national interest that the provision not apply in relation to the person or the action.

- (5) In determining the national interest, the Minister may consider Australia's defence or security or a national emergency. This does not limit the matters the Minister may consider.
- (6) A provision specified in the notice does not apply in relation to the specified person or action on or after the day specified in the notice. The Minister must not specify a day earlier than the day the notice is made.
- (7) Within 10 business days after making the notice, the Minister must:
 - (a) publish a copy of the notice and his or her reasons for granting the exemption in accordance with the regulations; and
 - (b) give a copy of the notice to the person specified in the notice.

Background

2. On 30 June 2009, Mr Peter Cochrane, Director of National Parks, applied for exemptions under sections 158 and 303A of the EPBC Act, in relation to a proposal to establish and maintain a captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*).

Evidence or other material on which the decision-maker's findings were based

3. The evidence and other material on which my findings were based was a brief from the Department of the Environment, Water, Heritage, and the Arts, dated 3 July 2009, which included the following attachments:
 - a copy of the application from Mr Cochrane for an exemption under section 158 of the EPBC Act in relation to the proposed captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*);
 - a copy of section 158 of the EPBC Act; and
 - a copy of the Christmas Island Expert Working Group Revised Interim Report dated 28 June 2009 (Interim Report).

Findings on material questions of fact

4. Biodiversity on Christmas Island is of national and international environmental significance because of it is unique.
5. The Christmas Island Pipistrelle (*Pipistrellus murrayi*) is listed as critically endangered under the EPBC Act, and is taxonomically distinctive and endemic to Christmas Island.
6. The Christmas Island Pipistrelle (*Pipistrellus murrayi*) population has declined rapidly and is now in critically low numbers of individuals.
7. The Interim Report recommended that the Christmas Island Pipistrelles (*Pipistrellus murrayi*) be captured from the wild as soon as practicable, in order to use as a captive breeding colony.
8. The Christmas Island Expert Working Group consists of some of Australia's leading scientists.

9. Because of the scope and comprehensiveness of the work undertaken by the Expert Working Group it is unlikely that I would receive more information if the normal EPBC Act assessment under Chapter 4 took place.
10. The captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*) would involve the:
 - immediate capture of sufficient animals on Christmas Island to establish a breeding colony;
 - capture of sufficient animals on Christmas Island to maintain a breeding colony;
 - construction of breeding facilities to house the animals on Christmas Island;
 - construction of breeding facilities to house the animals outside of Christmas Island;
 - captive husbandry within the breeding facilities; and
 - release of animals from the breeding facilities back to natural habitat on Christmas Island.
11. The chance of success for the captive breeding program is low but if no action is taken the Christmas Island Pipistrelle (*Pipistrellus murrayi*) would most certainly become extinct, possibly within less than a year.
12. A captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*) is necessary to try and save the species from extinction.
13. The captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*) must commence as soon as practicable, to ensure the highest chance of success for the program and save the species from extinction.

Reasons for decision

14. In the light of these considerations and the findings referred to above in this statement of reasons, I was satisfied that it is in the national interest that all of the provisions of Part 3 and Chapter 4 of the EPBC Act not apply in relation to the captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*) described above in this statement of reasons.
15. I therefore decided, under subsection 158(3) of the EPBC Act, to exempt the Director of National Parks and other specified persons from all of the provisions of Part 3 and Chapter 4 of the EPBC Act in relation to the captive breeding program for the Christmas Island Pipistrelle (*Pipistrellus murrayi*) described above in this statement of reasons.

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MINISTER FOR THE ENVIRONMENT, HERITAGE AND THE ARTS


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