



Commonwealth of Australia

Statement of reasons for granting an exemption under section 158 of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*

I, Greg Hunt, Minister for the Environment, provide this statement of reasons for my decision under subsection 158(3) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (**EPBC Act**) to grant an exemption for the Director of National Parks and those acting on behalf of the Director of National Parks, from the application of all 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 management program for the Christmas Island Flying-fox (*Pteropus melanotus natalis*), including but not limited to:

- the capture of a sufficient number of Christmas Island Flying-fox individuals on Christmas Island so as meet the objectives of the captive management program as recommended by expert advisors;
- holding Christmas Island Flying-foxes in captivity for a minimum of three years;
- captive husbandry of the Christmas Island Flying-foxes; and
- release of individual Christmas Island Flying-foxes that may be reared in captivity into natural habitat on Christmas Island.

Legislation

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

1. On 3 June 2014 I received a letter from the Director of National Parks, Ms Sally Barnes, in which she applied for an exemption under section 158 of the EPBC Act in relation to the proposal by the Director of National Parks, to implement a captive management program for the Christmas Island Flying-fox on Christmas Island.

Evidence

2. The evidence or other material on which my findings were based was a brief from my Department dated 24 June 2014. That brief attached:
 - a. the application of 2 June 2014 from the Director of National Parks;
 - b. a copy of section 158 of the EPBC Act;
 - c. a copy of the approved conservation advice for the Christmas Island Flying-fox (*Pteropus melanotus natalis*) (12 December 2013) (the **Conservation Advice**); and
 - d. a copy of the Final Report of the Christmas Island Expert Working Group to the Minister for Environment Protection, Heritage and the Arts (April 2010) (the **Final Report**).

Findings

Risks to the Christmas Island Flying-fox

3. Biodiversity on Christmas Island is unique and of international and national environmental significance.
4. The Christmas Island Flying-fox (*Pteropus melanotus natalis*) is listed as critically endangered under the EPBC Act and is endemic to Christmas Island. It is the last remaining indigenous mammal on Christmas Island.
5. The Christmas Island Flying-fox population has declined substantially.

6. The Christmas Island Flying-fox population is estimated to have declined by approximately 75 per cent in 22 years (from about 6000 in 1984 to about 1500 in 2006, with camps declining from six to three in the same period).
7. The Conservation Advice states that the sub-species has undergone a very severe reduction in numbers over three generation lengths (27 years for this assessment), equivalent to at least 80 per cent and the reduction has not ceased and the cause is not understood.
8. The Christmas Island Expert Working Group contains some of Australia's leading scientists. The Final Report of that Group identified that the Christmas Island Flying-fox may be at risk of extinction in the short to medium term.
9. The Conservation Advice and the Final Report noted that Flying-foxes play a significant role in pollination and dispersal of plants with fleshy fruits, which is especially important on islands where Flying-foxes may be the only species with this ecological function. The Christmas Island Flying-fox is considered an important keystone species for maintaining key ecosystem processes on Christmas Island.

Captive management program

10. The Final Report recommended that the costs, benefits and need for a Christmas Island Flying-fox captive breeding program be considered, for establishment, if recommended, by December 2010 and that appropriate monitoring and targeted research be conducted to identify major threatening processes for the endemic Christmas Island Flying-fox.
11. The Director of National Parks in her application to me proposes to implement a preliminary captive management program to assess the potential for a full captive breeding program should the wild population of Christmas Island Flying-foxes continue to decline.
12. The captive management program would involve the:
 - a. the capture of a sufficient number of Christmas Island Flying-fox individuals on Christmas Island so as meet the objectives of the captive management program as recommended by expert advisors;
 - b. holding Christmas Island Flying-foxes in captivity for a minimum of three years;
 - c. captive husbandry of the Christmas Island Flying-foxes; and
 - d. release of individual Christmas Island Flying-foxes that may be reared in captivity into natural habitat on Christmas Island.
13. The Director of National Parks noted that in her application that the program would provide an opportunity to investigate suspected threats to the sub-species, as well as learn more about the reproductive biology of the sub-species; knowledge of which will be needed for successful long-term captive breeding and / or in-situ management.

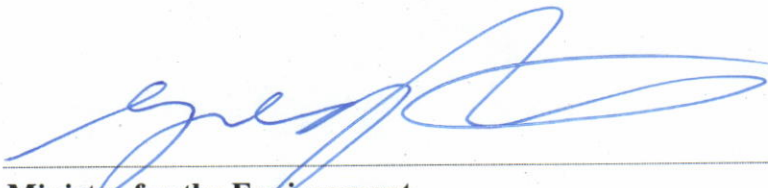
Application of Part 3 and Chapter 4 of the EPBC Act

14. My Department has advised the Director of National Parks that the captive management program may be covered by Part 3 of the EPBC Act and require assessment and approval under Chapter 4 of the EPBC Act. If this were to occur,

the implementation of the program would be delayed by at least four weeks if the captive management program was determined to be a not a controlled action, but potentially delayed for many months if determined to be a controlled action.

Reasons

15. In light of the matters discussed in paragraphs 1 – 14 above, I concluded that:
- a. there is a significant risk that the Christmas Island Flying-fox could decline further such that management actions such as a successful captive breeding program or informed in-situ management are required to prevent their extinction;
 - b. further decline or extinction of Christmas Island Flying-foxes could have substantial adverse affects to the ecosystem functioning of Christmas Island, which has unique biodiversity of international and national significance;
 - c. the captive management program would allow the threats and reproductive biology of the Christmas Island Flying-fox to be investigated which will inform the development of future management actions to reduce the risk of its extinction in the wild (including the potential for a full captive breeding program, if necessary);
 - d. given the risks faced by the Christmas Island Flying-fox and the importance of the sub-species to the ecosystem functioning of Christmas Island, the captive management program should commence as soon as practicable; and
 - e. the implementation of the proposed captive management program could be unduly delayed if the provisions of Part 3 and Chapter 4 of the EPBC Act were to apply to the program.
16. For these reasons, I was satisfied that it was in the national interest that all of the provisions of Part 3 and Chapter 4 of the EPBC Act not apply in relation to establishment and operation of a captive management program for the Christmas Island Flying-fox (*Pteropus melanotus natalis*) as described above.
17. Accordingly, I decided to exempt the Director of National Parks, and those acting on behalf of the Director of National Parks, from the application of all of the provisions of Part 3 and Chapter 4 of the EPBC Act in relation to the action described above.



Minister for the Environment

26 June 2014