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Dear Sir,

### **Draft National Wildlife Corridors Plan**

The Australian Network of Environmental Defender's Offices Inc (ANEDO) is a network of 9 community legal centres in each state and territory, specialising in public interest environmental law and policy. ANEDO strongly supports policy and legislative initiatives designed to achieve landscape-scale biodiversity conservation, and we welcome the opportunity to comment on the *Draft National Wildlife Corridors Plan* (Draft Plan).

#### **Objectives and guiding principles**

ANEDO has consistently submitted that creation, protection and long-term management of wildlife corridors is vital to build species resilience and in particular, to enhance adaptation to the impacts of climate change.<sup>1</sup> In our 2009 Report *Climate change and the legal framework for biodiversity protection in Australia: a legal and scientific analysis*,<sup>ii</sup> we identified 10 general principles for biodiversity protection under climate change. We welcome the recognition and inclusion of such principles in the Draft Plan and would strongly support the 6 objectives and 7 guiding principles being clearly expressed in legislation.

Our primary comments relate to the proposed legislative structure, legal effect and practical implementation of the Draft Plan.

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## The proposed Wildlife Corridors Act

It is proposed that a new Act would facilitate the declaration of National Wildlife Corridors, primarily to denote special conservation status for future funding purposes. ANEDO supports the identification and formal legislative recognition of National Wildlife Corridors, however, we are concerned that the Act does not confer any legal protection to declared corridors.

The Draft Plan indicates that the scheme is a “whole of landscape approach to biodiversity conservation that is *based on voluntary cooperation* and the existing efforts of landholders, governments and industry” (p1) (emphasis added). While the proposed Act is therefore not intended to establish a regulatory scheme, the practical implementation of the Act will intersect with regulatory regimes at the state and local level. In addition to the federal EPBC Act, there are a range of existing natural resource management statutes in each jurisdiction that apply to potential corridors, such as legislation establishing national parks, reserves, indigenous areas, and regulatory schemes relating to native vegetation, mining, threatened species and noxious weeds management etc.

Whilst we recognise the legal complexity of attempting to coordinate land management across a range of jurisdictions and tenures (subject to different existing land uses and private property rights), a key concern for ANEDO is that in the absence of effective implementation processes, the admirable policy intent of the new Act could be undermined by existing regulatory schemes.<sup>iii</sup> We therefore submit that more information is needed in the final plan in relation to implementation, and the introduction of the new Act should be accompanied by appropriate consequential amendments.

It needs to be made clear what effect a declaration of a corridor will have on the ground, for example, how a declaration will be considered or taken into account at the strategic regional planning level and in relation to local planning and development decisions. This would require coordination with the current EPBC Act review process to ensure recognition of corridors is included in the imminent legislative reforms. Recognition of National Wildlife Corridors would be consistent with the recent Government response to the Hawke Review recommendations relating to shifting the focus to landscape scale strategic environmental impact assessments, better identification of national environmental assets, and the greater use of regional and ecosystem strategies for recovery actions for threatened species. For example, the recognition of National Wildlife Corridors is relevant to Recommendation 4(1) - greater use of strategic assessments (as agreed by the Government); Recommendation 6 – expanding the role of strategic assessments and bioregional plans (as agreed in substance by the Government); and Recommendation 8 – recognition of ecosystems of national significance (as agreed in substance by the Government).<sup>iv</sup> The Draft Plan indicates an intention that corridors are relevant to these processes (for example, the policy intent of “embedding corridor development in regional NRM planning” p28) however in the absence of a clear legal requirement, it is not clear how the corridors scheme will be integrated into broader legislative planning processes.

Ultimately the best way to ensure these nationally recognised areas are appropriately protected is to include National Wildlife Corridors as a matter of national environmental significance under the EPBC Act.

We also submit that the final plan and Act should include more specific detail on the criteria for listing a corridor, for example, that a declaration will be based on objective ecological criteria. Similarly, more detail is required regarding the membership and functioning of the National Wildlife Corridors Council. We submit that the Council should be independent and expert-based following a similar model to Scientific Committee established to consider listings under other legislation.<sup>v</sup>

We would welcome the opportunity to provide comment on draft legislation.

For more information in relation to this submission please contact Rachel Walmsley, Policy & Law Reform Director, EDO NSW, (02) 9262 6989 or [rachel.walmsley@edo.org.au](mailto:rachel.walmsley@edo.org.au).

Yours sincerely,

Rachel Walmsley  
Policy & Law Reform Director, EDO NSW  
On behalf of the Australian network of Environmental Defender's Offices.

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<sup>i</sup> For example, see *ANEDO Submission to the House of Representatives Committee Inquiry into Australia's biodiversity in a changing climate*, 5 Aug 2011, available at: [http://www.edo.org.au/edonsw/site/policy\\_submissions.php#2](http://www.edo.org.au/edonsw/site/policy_submissions.php#2). In addition to policy and law reform work in this area, EDO has promoted the importance of corridors through our casework: for example, in *Ulan v Minister for Planning* [2011] NSWLEC 221, the NSW Land & Environment Court recognised the importance of wildlife corridors by imposing an additional biodiversity offset requirement on a mine, to link two discrete offset areas with a corridor including an area of Endangered Ecological Community, to form part of the overall offset package.

<sup>ii</sup> These are: facilitate adaptation and enhance resilience and resistance; ensure representation (diversity of habitat types) and replication; protect and create large patches of vegetation; consider connectivity; improve management of the 'matrix'; identify and protect climate refugia; increase the focus on protecting ecosystem functions; consider translocation; prioritise conservation actions; and recognise and manage for uncertainty. EDO NSW 2009, available at: [www.edo.org.au](http://www.edo.org.au).

<sup>iii</sup> For example, this is of concern particularly in jurisdictions where land clearing laws are under review such as NSW and Victoria.

<sup>iv</sup> See: *Australian Government response to the report of the Independent Review of the Environment Protection & Biodiversity Conservation Act 1999*, SEWPaC, 2011; pp 10, 15 and 23.

<sup>v</sup> Such as under the *EPBC Act 1999* or the *Threatened Species Conservation Act 1995* NSW.