



24 September 2021

Compliance and Enforcement Division

Department of Agriculture, Water and the Environment
GPO Box 858
Canberra ACT 2601

By email: environment.compliance@awe.gov.au

Copy to:

The Hon Eva Lawler

Minister for the Environment
Parliament House
Darwin NT 0800

By email: minister.lawler@nt.gov.au

Northern Territory Environment Protection Authority

Level 1, Arnhemica House
16 Parap Rd,
Parap NT 0820

By email: ntepa@nt.gov.au

To whom it May Concern,

Regarding: Top End Pastoral Company – Permit to Clear Pastoral Land (s38(1)(h)) on Claravale Station – Permit Number: PLC21/02

On behalf of the Wilderness Society, our 3000 strong Territory supporters and tens of thousands of supporters nationally, and the Environment Centre NT and our 7000 supporters, we are writing to request that you exercise your powers under s70(1) of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (**EPBC Act**) regarding the above application, approved by a delegate of the Northern Territory's Pastoral Land Board.

Top End Pastoral Company (**the Proponent**) has been granted a permit by the Northern Territory's Pastoral Land Board to clear 926.85ha of pastoral land under section 38(1)(h) of the *Pastoral Land Act 1992 (NT)* on Claravale Station Pastoral Lease 01214 on 13 September 2021 (**the Proposed Action**). A copy of the permit is **attached**.

As you are aware, under section 18 of the EPBC Act, a person must not take an action that has or is likely to have a significant impact on a listed threatened species included in the endangered, critically endangered or vulnerable category, without an approval. In our view, and for the reasons detailed below, the Proposed Action clearly meets the threshold of



requiring a referral and approval under the EPBC Act.

We respectfully submit that you should exercise your powers under s 70(1) the EPBC Act to request the Proponent to refer the Proposed Action to you within 15 business days. If the matter is not referred to you within that period, we submit that you should deem that the Proposed Action has been referred to you under s 70(3).

Alternatively, we respectfully request the Department of Agriculture, Water and the Environment (**the Department**) to immediately investigate potential breaches of the *Environment Protection and Biodiversity Conservation Act 1999 (Cth)* (**EPBC Act**) in relation to the potentially unlawful proposed vegetation clearing at Claravale Station.

Significant impacts on matters of national environmental significance

In our organisations' view, the Proposed Action will have, or is likely to have, a significant impact on the following threatened species listed under the EPBC Act, thus necessitating referral and approval under this legislation:

1. The Partridge Pigeon;
2. The Ghost Bat; and
3. The Gouldian Finch.

Further, the cumulative impacts of the Proposed Action and other threatening processes in the Daly Basin bioregion (including land clearing) on these three listed species are significant and require referral and approval under the EPBC Act.

Our organisations have written to both the Pastoral Land Board and the Northern Territory Environment Protection Authority (NTEPA) advising them of the need for the Proposed Action to be referred under the EPBC Act on the bases of the impacts on these threatened species, and that to approve the Proposed Action in the absence of an approval under the EPBC Act may breach that legislation. A copy of the Environment Centre NT's submission to the Pastoral Land Board is **attached**. A copy of the Wilderness Society and the Environment Centre NT's letter to the NTEPA is also **attached** (to which we have not received a response).

Significant impact on an important population of the Partridge Pigeon

The Partridge Pigeon (*Geophaps smithii smithii*) is listed as vulnerable under both the *Territory Parks and Wildlife Conservation Act 1976* (NT) and the EPBC Act. The Proponent identified the risk to the Partridge Pigeon as "medium" based on fieldwork conducted in the Permit area.

The population of the Partridge Pigeon the subject of the Proposed Action is an "important population" for the purposes of the Australian Government's *Matters of National*



*Environmental Significance: Significant impact guidelines 1.1*¹ under the EPBC Act because it is “near the limit of the species range” (p 10), and meets numerous significant impact criteria named therein, including that there is a real chance or possibility that the action will:

- reduce the area of occupancy of an important population;
- fragment an existing important population into two or more populations; and/or
- modify, destroy, remove or isolate or decrease the availability or quality of habitat to the extent that the species is likely to decline.

The Conservation Advice for the Partridge Pigeon identifies land clearing as a key threatening process for the Partridge Pigeon, specifically in the Darwin Daly region (where Claravale Station is located).²

It is thus clear that the impacts on the Partridge Pigeon from the Proposed Action meet the threshold of requiring referral under the EPBC Act.

Significant impact on an important population of the Ghost Bat

The Ghost Bat (*Macroderma gigis*) is listed as vulnerable under both the EPBC Act and the *Territory Parks and Wildlife Conservation Act 1976* (NT). The population of ghost bats at Claravale Station is considered to be of high significance for the species in the NT, as it is one of only 5 known maternity roosts in the whole of the Territory. The many interconnected caves and sinkholes at Claravale Station are important roosting sites for the ghost bat, and the Proposed Action will clear important foraging habitat for this population.

Our organisations note that the population of the Ghost Bat the subject of the Proposed Action is an “important population” for the purposes of the Australian Government’s *Matters of National Environmental Significance: Significant impact guidelines 1.1* under the EPBC Act because it is a “key source population for breeding or dispersal” due to the Claravale Ghost Bat population being one of 5 known maternity roots in the Territory. The action meets numerous significant criteria named therein, including that there is a possibility that the action will (p 10):

- Lead to a long-term decrease in the size of an important population of a species;
- Reduce the area of occupancy of an important population;
- Disrupt the breeding cycle of an important population; and/or
- Modify, destroy, remove or isolate or decrease the availability or quality of habitat to the extent that the species is likely to decline.

Modification to foraging habitat has been identified as a key threatening process for the Ghost Bat in the Conservation Advice for the species.³ It is thus clear that the impacts on the

¹ https://www.environment.gov.au/cgi-bin/sprat/public/publicspecies.pl?taxon_id=66501.

² <http://www.environment.gov.au/biodiversity/threatened/species/pubs/64441-conservation-advice-01102015.pdf>

³

<http://www.environment.gov.au/biodiversity/threatened/species/pubs/174-conservation-advice-0>



Partridge Pigeon from the Proposed Action meet the threshold of requiring referral under the EPBC Act.

Significant impact on an important population of the Gouldian Finch

The Gouldian Finch is listed as endangered under the EPBC Act, and vulnerable under the *Territory Parks and Wildlife Commission Act*.

Our organisations note that the population of the Gouldian Finch the subject of the Proposed Action is an “important population” for the purposes of the Australian Government’s *Matters of National Environmental Significance: Significant impact guidelines 1.1* under the EPBC Act because there is a real chance or possibility that it will:

- Reduce the area of occupancy of the species;
- Fragment an existing population into two or more populations;
- Adversely affect habitat critical to the survival of a species; and/or
- Interfere with the recovery of the species.

It is thus clear that the impacts on the Gouldian Finch from the Proposed Action meet the threshold of requiring referral under the EPBC Act.

Cumulative impacts of the proposal with other threatening processes in the region

Land clearing is a fundamental pressure on the environment. Land clearing causes the loss, fragmentation and degradation of native vegetation, and a variety of impacts on soils (eg erosion, salinity, loss of nutrients and acidification) and disrupts essential ecosystem processes.⁴ Based on current trends, many mammals in northern Australia may become extinct in the next 10-20 years.⁵ Threats to biodiversity from land clearing and habitat loss are one of the greatest threats to threatened species in Australia, and to the environment more generally.⁶

Recent research indicates that Northern Australia’s tropical savannas are one of 19 ecosystems in Australia that meet the criteria of being under collapse.⁷ Bergstrom et al

[5052016.pdf](#).

⁴ State of the Environment Australia 2016. “Land Theme: Regional and landscape-scale pressures: Land clearing.”

<https://soe.environment.gov.au/theme/land/topic/2016/regional-and-landscape-scale-pressures-land-clearing>

⁵

<https://www.natureaustralia.org.au/content/dam/tnc/nature/en/documents/australia/Into-Oblivion.pdf>.

⁶ Neldner et al. 2017. *Scientific review of the impacts of land clearing on threatened species in Queensland*. Queensland Government, Brisbane.

https://environment.des.qld.gov.au/data/assets/pdf_file/0020/90272/land-clearing-impacts-threatened-species.pdf.

⁷ Bergstrom et al. 2021. "Combating ecosystem collapse from the tropics to the Antarctic."



suggest that it is imperative to understand how different threatening processes combine cumulatively (acting in what they term “threat webs”) to further threaten Australia’s collapsing ecosystems. As habitats become increasingly fragmented, populations become more vulnerable to other threatening processes, such as climate change, changes in streamflow regimes, predation by invasive species and destructive fires, and they lose the ability to recolonise suitable habitat.

It is of concern to our organisations that 13% of the Daly Basin bioregion (where the Proposed Action is to occur) is already cleared. The National Environmental Science Program’s Northern Australian Environmental Resources Hub (**NESP**) recently created spatial data that can be usefully used to inform species conservation policy, assessments of species’ conservation status and decision-making about threat mitigation and management.

The Environment Centre NT used this data to create a map showing the cumulative risk from land clearing for agricultural development (historically, and projected) in the Northern Territory. A copy of the map is **attached**, and clearly demonstrates that Claravale Station, and the Daly and Katherine catchments more broadly, are at a very high risk of clearing compared with other areas of the Northern Territory. The risk of this habitat being cleared has increased since the data was published, due to the announcement of a cotton gin near Katherine which will spur agricultural development in the region significantly (including associated land clearing). The same proponent has recently (in July 2021) had an application to clear 667 hectares of land on its adjacent property approved. It is possible that the proponent intends to clear more land on its properties in the future. The cumulative impacts of the Proposed Action, together with the 667 hectares on an adjacent parcel of land, and the threat of future land clearing in the Daly Basin bioregion as disclosed in the NESP data, must be assessed under the EPBC Act.

The Environment Centre NT also generated 3 vulnerability maps using this data showing the cumulative impacts of key threatening processes to the Partridge Pigeon, Ghost Bat and Gouldian Finch in the area of the Proposed Action (**attached**). The maps overlay the known habitat of these threatened species with maps showing threats posed by a range of threats including agriculture (ie land clearing), climate change, disease, invasive species, changed fire regimes, and grazing. Notes showing how these cumulative vulnerability maps were produced are also **attached**.

These maps demonstrate that the land the subject of the application is an area of high vulnerability to multiple threatening processes with respect to two species listed under the EPBC Act (the Ghost Bat and Gouldian Finch). With respect to the Partridge Pigeon, the map is less stark, however our organisations submit that the location of this species at Claravale Station outside the known area of its habitat in the map (according to the NESP data) supports our contention that it is an important population for the purposes of the EPBC Act, because it is at the very outer edge of its range.

Global change biology 27(9):1692-1703.



If the Proposed Action is assessed cumulatively with other threatening processes in the Daly catchment as evidenced by the maps provided with this submission, the possible impact of the Proposed Action on matters of national environmental significance is clearly likely to be significant and requires referral under the EPBC Act.

Conclusion

In sum, it is clear that the Proposed Action must be referred under the EPBC Act.

Our organisations, and the supporters we represent, are deeply concerned by the rate of increase in land clearing applications and approvals in the Northern Territory, particularly in the Daly and Katherine catchments. This is the leading driver of biodiversity loss in Australia, and a source of considerable greenhouse gas emissions. In comparison to other jurisdictions, the Northern Territory has some of the weakest regulations for land clearing. Historically, this has led to an increase in land clearing permits and a destruction of key habitats.

The Northern Territory's *Pastoral Land Act* is not fit for purpose to protect the pastoral estate from habitat fragmentation and damage on the vast scale that is underway, and being proposed. The Northern Territory is completely unprepared to respond to the environmental threats posed by the proposed large-scale agricultural development in a wider context of ecological and climate collapse, with piecemeal regulatory approvals that frustrate any attempts to strategically assess the likely cumulative impacts of these developments instead the norm.

Given the presence of a number of threatened species in the permit area, the important populations of the Partridge Pigeon, Ghost Bat and Gouldian Finch in particular, and the high vulnerability of threatened species to multiple threatening processes in the Daly Basin bioregion, the permit should be referred for assessment under the *EPBC Act*.

If you have any questions, please do not hesitate to contact Kirsty Howey on kirsty.howey@ecnt.org.

Yours Sincerely,

Kirsty Howey

Co-director

Environment Centre NT

Shar Molloy

Co-director

Environment Centre NT

Amelia Young

National Campaigns Director

The Wilderness Society

Gemma Plesman

Senior Campaigner

The Wilderness Society



About our Organisations



The Wilderness Society is a leading Australian environmental organisation. For over 40 years we have campaigned to safeguard the Australian environment and the wildlife and communities that depend on them. Our many successes include protection of the Tasmanian Wilderness, the Daintree Rainforest, Kakadu, Ningaloo Reef, Fraser Island, the Kimberley coast, and countless stands of old growth forest. Our purpose is to protect, promote and restore wilderness and natural processes across Australia for the survival and ongoing evolution of life on Earth.



The Environment Centre NT is the peak community sector environment organisation in the Northern Territory of Australia, raising awareness amongst community, government, business and industry about environmental issues and assisting people to reduce their environmental impact and supporting community members to participate in decision-making processes and action. Our vision is for thriving nature and a sustainable future for all Territorians, and our mission is to inspire, support and take action that protects the environment.