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EDO ALERT – Bat appeal won!

Court of Appeal orders retrial of Booth v Frippery

Excellent news: Carol Booth succeeded in the Court of Appeal this morning. The Court directed a retrial of her application for orders against a lychee farmer. See below for media release.

A big thank you to Barristers Stephen Keim SC and Chris McGrath, and to Dr Booth herself, for their unstinting work on this landmark nature conservation case. Many thanks also to the donors and volunteers who contributed to the case's success so far.

MEDIA RELEASE issued by Carol Booth & EDO Qld 17.3.06:

The Court of Appeal today upheld an appeal by conservationist Dr Carol Booth against a judgement that would have allowed farmers to kill wildlife for crop protection without permit.

The three judges of the Court of Appeal have ordered a retrial of Booth v Frippery Pty Ltd & Ors in the Planning and Environment Court. Despite evidence of the electrocution of up to 50,000 flying foxes without permit over a decade, Judge Pack in the original case dismissed Dr Booth's application for an injunction and for orders requiring the dismantlement of the grids and a contribution to flying fox rehabilitation.

If the appeal had failed the Nature Conservation Act would have been rendered ineffective to protect wildlife. For this reason the EPA was also a party to the appeal.

Dr Booth said the court saga reinforced the need for the government to require the dismantlement of electric grids, not just ban their use to kill flying foxes. "As demonstrated in this case, while grids are allowed to exist, they will be used illegally. As a result, precious community resources are being dedicated to basic enforcement of wildlife laws."

"Because grids are on private property and used at night, the EPA ban on electrocution of flying foxes is largely unenforceable and there is evidence of significant ongoing electrocution. The only practical solution is to require dismantlement," Dr Booth said.

The primary case was the first use of new citizen rights to enforce the Nature Conservation Act. The case highlights the importance of such rights, which are now widely accepted in environmental legislation.

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