



Nature Conservation Council

The voice for nature in NSW

Committee Secretary
Senate Standing Committee on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600

10 September 2018

SUBMISSION TO THE INQUIRY INTO AUSTRALIA'S FAUNAL EXTINCTION CRISIS

Dear Committee,

The Nature Conservation Council of NSW (**NCC**) is the state's peak environment organisation. We represent over 150 environment groups and thousands of supporters across NSW. Together we are dedicated to protecting and conserving the wildlife, landscapes and natural resources of NSW.

We welcome the opportunity to provide input into the inquiry into Australia's fauna extinction crisis. Our work is predominantly in NSW, and therefore our comments provide a NSW perspective to the crisis facing our much-loved native wildlife.

While we have not addressed each of the terms of reference, our **enclosed** submission can assist the inquiry by:

- highlighting the extent of decline in biodiversity in NSW;
- using our recent experience with land clearing in NSW to detail the failure of Commonwealth environment laws to protect threatened species and their habitat; and
- providing recommendations for improving the Commonwealth's response to the extinction crisis, including a new generation of environmental laws.

Upfront we note that biodiversity in NSW has been declining since European settlement, with the most recent NSW State of the Environment report showing there are 999 flora and faunal species threatened with extinction in NSW. With the decline in biodiversity continuing, it is clear that both state and federal laws are not providing adequate enough protection for our unique native wildlife including iconic species such as the Koala, Numbat, Eastern quoll and Regent Honeyeater, and that significant action is required if we want to reverse current trends and save species currently on the brink from the same fate as the Tasmanian tiger and Eastern Bettong.

Yours sincerely,

Daisy Barham
Campaigns Director

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INTRODUCTION

Australia is one of the world's 12 megadiverse countries that together harbour most of the Earth's species and individually contain a high number of endemic species¹. Some 93% of amphibians, 89% of reptiles, 83% of mammals, and 24% of fish and insects found in Australia occur nowhere else on the planet². Our bushland and native animals are integral to our national identity, an essential part of what makes Australia and Australians unique. We have important international and domestic obligations in conserving threatened fauna and as a signatory to the *Convention on Biological Diversity* recognise that biodiversity has intrinsic, ecological, genetic, social, economic, scientific, educational, cultural, recreational and aesthetic values that are all worth preserving³.

Yet Australia is facing a faunal extinction crisis. This is evident in our own state of NSW. When Europeans arrived in 1788 there were an estimated 897 species of native terrestrial vertebrates found in NSW. Since that time 12 bird species (2%) and 25 mammals (9%) have become extinct in NSW. Today, 59% of all mammals⁴, 40% of reptiles, and 30% of birds in NSW are threatened with extinction⁵. The NSW State of the Environment Report (2015) shows that this decline is continuing, with 999 species of plants and animals and 108 ecological communities listed as threatened under NSW legislation⁶. With additional species added since the last Report, the number of species in NSW listed as threatened with extinction now exceeds 1000, a list that includes the iconic Koala and Regent Honeyeater.

ADEQUACY OF COMMONWEALTH ENVIRONMENT LAWS

In the face of Australia's faunal extinction crisis, Commonwealth environment laws have an important role to play in reversing the trend of biodiversity decline and extinction. Yet our recent experience with land clearing in NSW demonstrates that Commonwealth environmental laws are failing to protect threatened species and their habitat, and safeguard against key threatening processes.

Case study: Land clearing – a major cause of extinction

Land clearing, and associated habitat loss, is identified as a key threatening process (KTP) under both NSW and Commonwealth laws. KTPs are those which threaten the survival, abundance or evolutionary development of a native species or ecological community. Land clearing and habitat loss has been one of the major causes of the extinction of Australian fauna to date, and remains one of the greatest threats to biodiversity and further extinctions⁷. While native animals are at risk from a range of threats including disease⁸, predation from introduced species⁹, and climate change¹⁰, habitat loss in particular underpins

¹ UNEP, (2014). United Nations Environment Programme World Conservation Monitoring Centre, Megadiverse Countries.

www.biodiversitya-z.org/content/megadiverse-countries

² Williams, J. et al. (2001). Biodiversity, Australia State of the Environment Report 2001 (Theme Report) CSIRO Publishing on behalf of the Department of the Environment and Heritage, Canberra. ISBN 0-643- 06749-3.

³ United Nations (1992). Convention on Biological Diversity, www.cbd.int/convention/

⁴ 'Mammals of NSW: past, present, and future' C. Dickman, 2006.

<http://publications.rzsnsw.org.au/doi/pdf/10.7882/AZ.1994.004?code=RZSW-site>

⁵ Sydney Morning Herald, *Miriam Margolyes stands up for the threatened tiger quoll*, 17 April 2015,

www.smh.com.au/environment/miriam-margolyes-stands-up-for-the-threatened-tiger-quoll-20150416-1mmjpm.html

⁶ NSW State of Environment Report 2015, p 104, www.epa.nsw.gov.au/soe/soe2015/index.htm

⁷ Commonwealth of Australia, *State of the Environment Report*, 2016

⁸ See 'Infectious Disease in Koalas: Implications for Conservation' by the Australian Wildlife Hospital, 2009 for more information on the impact of diseases on the Koala.

the high rights of extinction, driven by land clearing for agriculture, industry, infrastructure and urban development¹¹.

In recent times, Australia has a poor history of land clearing and deforestation. Australia has lost 25% rainforest, 45% of open forest, 32% woodland forest and 30% of mallee forest in 200 years¹², and is listed amongst the top-10 global deforesters¹³.

Although the most recent Commonwealth State of the Environment report (2016) showed that rates of land clearing were broadly stable or decreasing in most states (with the exception of Queensland), this should not be seen as implying that land clearing is no longer a threat. With the recent weakening of protections in NSW we anticipate the trend to increase in NSW from August 2017.

We note that:

- Although rates of land clearing were found to be stable or decreasing, the historic legacy of broad-scale land clearing means that significant damage across the landscape continues to have long-term impacts on habitat and native fauna. For example, in NSW only 9% of the existing vegetation is considered to be in close to natural condition¹⁴. This legacy has no doubt contributed to the extinction crisis, and must be recognised in any discussion about future action for conserving native wildlife and their habitats.
- Queensland was an exception to the trend due to changes to land clearing laws in 2013 that saw rates of clearing increase¹⁵.
- Up-to-date data for NSW was not available when the Commonwealth State of the Environment report was prepared. It has since been released, and shows that land clearing rates in NSW increased 800% over three years from 2013-14 to 2015-16¹⁶.
- Since the release of the 2016 State of the Environment report, NSW has also weakened its land clearing laws, and it is anticipated that land clearing rates will continue to increase in NSW under these new laws¹⁷. No data has yet been released under the new laws. However, analysis

⁹ See WWF's 'Species Fact Sheet: Quolls', 2008 for information on the impact of introduced species including foxes and cats on Quolls.

¹⁰ See the Australian Museum's 'Australian Species Vulnerable to Climate Change' for more information on the Broad Headed snake, at risk of interrupted breeding seasons from climate change.

¹¹ See Commonwealth State of the Environment Report, 2016; see also Neldner, V.J et. al. (2017). *Scientific review of the impacts of land clearing on threatened species in Queensland*. Queensland Government, Brisbane, www.ehp.qld.gov.au/wildlife/threatened-species/documents/land-clearing-impacts-threatened-species.pdf

¹² Wilderness Society, [10 facts about deforestation in Australia](#).

¹³ Sydney Morning Herald, [Australia is a global top-10 deforester and Queensland is leading the way](#), November 2017,

¹⁴ NSW State of the Environment Report 2012, Chapter 5, Section 5.2, www.epa.nsw.gov.au/soe/soe2012/chapter5/chp_5.2.htm

¹⁵ In Queensland, the relaxation of land clearing laws in 2013 led to high rates of land clearing (see ABC News, 22 May 2017, [Tree clearing debate re-emerges as conservationists accuse farmers of bulldozing one million hectares of trees](#)). Laws reintroducing restrictions were passed by the Qld Parliament in May 2018.

¹⁶ The Guardian, [Clearing of native vegetation in NSW jumps 800% in three years](#), 4 August 2018,

¹⁷ The NSW *Native Vegetation Act* 2003 was repealed on 25 August 2017, and replaced by the *Biodiversity Conservation Act* 2016 and new provisions in the *Local Land Services Act* 2013. The new laws have been criticised for reducing environmental protections and facilitating broad-scale land clearing (see, for example, Sydney Morning Herald, 3 November 2016, [Scientist Hugh Possingham quits over Baird government's land-clearing plan](#)).

undertaken by NCC and WWF shows that land clearing rates have almost tripled in the north of the State¹⁸.

The recent weakening of land clearing laws in NSW has highlighted the shortcomings of Commonwealth environmental legislation in providing sufficient protections for threatened fauna against the key threatening process of land clearing. Similar lessons have been learnt in Queensland.

In particular we note that:

- The *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) does not provide absolute protection for threatened species or their habitats by putting high-conservation value habitat off limits to certain activities. Instead the EPBC Act prohibits certain activities without approval, and sets up a referral and determination process for those activities.
- Land clearing is not directly regulated through Commonwealth laws. Land clearing activities do not automatically require Commonwealth approval; the laws are triggered if land clearing activities have a significant impact on a matter of national environmental significance (e.g. threatened species, Ramsar listed wetland)¹⁹.
- Changes to state land clearing laws could be perceived by landholders as removing restrictions on land clearing. Without a proper understanding of how the new laws work, landholders may be under the false impression that they are now able to clear vegetation without approval. Many may be unaware that approval may still be required under the EPBC Act. Research undertaken by WWF in Queensland indicates that clearing of Federally listed threatened species habitat and ecological communities has been occurring in Queensland for which there was no evidence of referral under the EPBC Act²⁰
- This same research by WWF reports that there is no record of prosecution for those alleged breaches of the EPBC Act, suggesting that the EPBC Act is not being adequately enforced²¹.
- Documents recently released under freedom of information laws have shown that under the EPBC Act, the Commonwealth accredited a former NSW biodiversity offsetting policy despite it failing to meet national standards²². The offsetting policy facilitates land clearing by allowing clearing to occur if impacts are 'offset' by other identified conservation actions.

The implications can be better understood when considering how the laws are failing specific species:

- **Malleefowl:** The Malleefowl (*Leipoa ocellata*) is currently listed under the EPBC Act as vulnerable. The two largest threats to the Malleefowl are land clearing and ongoing habitat fragmentation. The National Recovery Plan for Malleefowl lists the NSW Native Vegetation Act 2003 as a

¹⁸ Nature Conservation Council and WWF, [Bulldozing of bushland nearly triples around Moree and Collarenebri after safeguards repealed in NSW](#), September 2018

¹⁹ We note the 2009 Senate Inquiry into the EPBC Act recommended that the Government should consider including a land clearing trigger in the Act, see The Senate Standing Committee on Environment, Communications and the Arts, *The operation of the Environment Protection and Biodiversity Conservation Act 1999: First report* (2009) at [2.58]

²⁰ WWF, [Pervasive inaction on national conservation law over tree-clearing in Queensland](#) December 2017

²¹ Ibid

²² Sydney Morning Herald, [Federal government approved flawed NSW environment policy](#), May 2018

mitigating factor in land clearing that would threaten the bird, but that Act has now been repealed. New laws leave vital habitat exposed to land clearing; for example, equity codes can be used to undertake broad-scale clearing of the habitat of all species besides those which are critically endangered.

- Superb parrot: The superb parrot (*Polytelis swainsonii*) is found throughout NSW, and is listed as a vulnerable species under the EPBC Act. The Superb parrot requires distinct breeding and foraging habitat. Breeding occurs in large hollow-bearing trees. Following the breeding season, the Superb parrot migrates to foraging habitat, such as Acacia pendula communities (and other grassy woodlands), which have been heavily cleared and fragmented. Recent changes to NSW laws have made it easier for landowners to clear such habitat including hollow bearing trees, which goes directly against the Federal Government's National Recovery Plan exacerbates of key threatening processes (land clearing and removal of hollow bearing trees).

RECOMMENDATIONS FOR IMPROVED COMMONWEALTH LAWS

We expect that this inquiry will draw much-needed attention to the extinction crisis facing Australia, and hope that it makes compelling recommendations for decisive intervention to prevent more of our previous native wildlife facing the same fate as the Tasmanian tiger or Eastern Bettong.

To this end, we strongly urge the committee to include recommendations for:

- A new generation of national environment laws. New laws are needed to help protect our unique wildlife, and the places we love.
- The establishment of independent institutions that operate transparently and independently of government, to guide and support our efforts to conserve our native fauna and their habitats and set science-based national environmental standards (for example, a National Sustainability Commission that develops enforceable national, regional, threat abatement and species-level conservation plans, and a National Environmental Protection Agency with adequate authority and capacity to check for compliance and enforce environment laws).
- Guaranteed community rights and participation in environmental decision-making. Community members should have the right to be a part of local, state and national planning and decision making, especially when considering decisions pertaining to our shared national heritage.

CONCLUSION

Evidence shows that Australia is in the midst of a faunal extinction crisis. In NSW 12 bird species (2%) and 25 mammals (9%) have become extinct in NSW in the last 230 years and over 1000 species are threatened with extinction. Land clearing and habitat loss are the biggest threats to the ongoing decline in biodiversity, yet Commonwealth environment laws are failing to prevent destructive land clearing and deforestation, particularly in cases where State laws are failing. We need a new generation of environment laws to help protect our unique wildlife, and the places we love.