Nature Conservation Society of South Australia

5 Milner Street,
Hindmarsh SA 5000

Phone: (08) 7127 4630
Fax: (08) 82319773

Website: www.ncssa.asn.au

EPBC Act Review Secretariat
epbcreview@environment.gov.au

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Dear Professor Graeme Samuel AC,

The Nature Conservation Society of South Australia (NCSSA) appreciates the opportunity to provide a submission to the independent review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

NCSSA commends you, as the independent reviewer, together with your supporting Expert Panel, for conducting this review and trusts that it will lead to substantial improvements in Australia's national environmental governance system. Today's environmental challenges are great and have only increased since the inception of the Act in 1999, including the accelerating climate emergency[1] and the ongoing biodiversity extinction crisis[2]. It is therefore imperative that Australia's national environmental legislation is clear, effective and modern, and establishes a strong framework within which Australian's can live sustainably.

About NCSSA

Established in 1962, NCSSA is a primarily voluntary, community-based nature conservation organisation, with members drawn from all parts of the State and all walks of life. We foster the conservation of the State's wildlife and natural habitats through a range of activities such as monitoring South Australia's plants and animals, including protecting and recovering threatened species and their habitats, working to ensure adequate park dedication and management, supporting legislation to protect nature, including native vegetation, as well as education and advocacy within the community and to all tiers of government about the importance of, and need for, nature conservation.

The Yellow-footed Rock Wallaby, *Petrogale xanthopus xanthopus*, is the logo for our Society. This outstandingly beautiful animal was chosen because it symbolises what we stand for: South Australians who love our native animals and plants, and wish to see them cared for and conserved. Particularly, we believe that scientifically studying and understanding the nature that surrounds and supports us means we can act with the greatest impact to protect it. Unfortunately, the Yellow-footed Rock Wallaby is listed as vulnerable to extinction under the EPBC Act primarily due to competition from introduced herbivores, in particular feral goats and rabbits, predation by foxes and feral cats and due to the isolation of remaining populations.

Threat abatement programs aimed at reducing the impact of feral goats and predation by foxes commenced in the early 1990's and have continued to the present with funds from both the Commonwealth and the South Australian Governments. These programs are conducted across public and private land including National Parks, pastoral leases and privately managed conservation areas in the Flinders, Gawler and Olary Ranges. In areas where active threat management programs are in place there has been a significant increase in Rock Wallaby numbers based on aerial surveys conducted since the early 1990's. However, the areas where threats are

[1] https://www.ipcc.ch/sr15/chapter/spm/
[2] https://ipbes.net/sites/default/files/ipbes_global_assessment_report_summary_for_policymakers.pdf?file=1&id=35329&type=node

currently managed only cover approximately 30% of the known colonies within the species distribution in South Australia with local declines, and in some case extinction, of colonies evident in unmanaged areas based on ground surveys. Due to the high mobility of both feral goats and foxes and our inability to completely eradicate them from the landscape, ongoing funds will be required to maintain the biodiversity gains achieved and protect previous investment.

The Yellow-footed Rock Wallaby is just one example of a species listed under the EPBC Act that will require ongoing management of threats to maintain viable populations into the future. Funding to support this critical work is essential and is one of the issues we will discuss in our submission.

NCSSA's interest in national environmental legislation

NCSSA's interests in Australia's national environmental legislation include:

- Listing, protection for and recovery of South Australia's threatened species and ecological communities,
- How national environmental legislation interacts with State legislation for the protection and management of South Australia's remaining native vegetation,
- The establishment and management of a comprehensive, representative and adequate nature reserve system in South Australia, and
- The management of threats to nature, including pest plants and animals.

NCSSA's experience with the EPBC Act to date

NCSSA's interactions with the EPBC Act to date have included commenting on nominations for the listing of threatened species and ecological communities as threatened, commenting on referrals under the Act and reporting suspected breaches of the Act. Our Society has also previously commented more generally on the adequacy of the EPBC Act and other related Commonwealth environmental laws in response to a number of inquiries and reviews (Attachment A). This submission refers to these earlier inquiries and reviews, including the Hawke Review of the EPBC Act in 2009, where relevant.

NCSSA strongly supports Commonwealth regulation of Australia's environment and, overall, believes the intent of the EPBC Act is appropriate. Our experience of commenting on nominations has generally been positive. However, overwhelmingly, NCSSA's experience has been that the EPBC Act fails to deliver on its object of 'promoting the conservation of biodiversity', providing little or no practical protection for the Matters of National Environmental Significance (MNES) it purports to protect, nor support for their proactive recovery. This appears to be due to a combination of factors, including:

- a reluctance to employ the precautionary principle in decision making,
- a lack of resources and/or will, including in communicating with community groups such as ours, and
- an overly narrow interpretation of 'biodiversity conservation' through the restriction of considerations only to 'significant impact' on current MNES, which are too tightly circumscribed to realistically conserve biodiversity into the future.

An example of reluctance to employ the precautionary principle in decision making observed by NCSSA involved the clearing of four EPBC Act listed threatened plant species by contractors establishing (or re-establishing) firebreaks in preparation for track welding and grinding on the Port Lincoln to Buckleboo railway line in 2002. A subsequent detailed analysis found that the clearance had had a 'significant impact' on each of the four species within the meaning of the Administrative Guidelines for Significance [3] (Davies 2004). However, the

[3] http://www.environment.gov.au/epbc/publications/significant-impact-guidelines-11-matters-national-environmental-significance

Commonwealth did not proceed with legal action against the contractors. NCSSA understands this was due to a combination of uncertainty regarding the number of individuals in these populations prior to the clearance as well as a lack of understanding that regenerating individuals of threatened species were likely to be prevented from fully establishing due to weed invasion resulting from the disturbance. We believe that if the Commonwealth had truly applied the precautionary principle in this case, action would have been taken against the contractors responsible.

A lack of communication has been experienced when NCSSA has reported suspected breaches of the EPBC Act, including clearing for firebreaks in the Aldinga Scrub Conservation Park which impacted on threatened orchid species and the clearance of endangered Peep Hill Hop-bush (*Dodonaea subglandulifera*) near Port Wakefield as part of the conversion of native vegetation to pasture. In these instances, NCSSA provided information to the Commonwealth about these actions, but was never provided with any follow-up or notification of the outcomes of any investigations.

NCSSA also believes that the interpretation of 'biodiversity conservation' as only relating to MNES and only when 'significant impact' can be demonstrated is overly narrow and fundamentally flawed. NCSSA's has repeatedly experienced this limitation when commenting on proposals seeking approval to clear native vegetation under State legislation. Even large clearances and clearances in sensitive environmental areas have failed to 'trigger' the EPBC Act. As a result, native vegetation clearance in the State continues at an unsustainable rate (over 186km^2 has been approved for clearance over the period 2011 – 2019), and our biodiversity continues to decline[4].

Summary of improvements sought by NCSSA

Since the EPBC Act is failing to provide adequate protection of Australia's environment as currently drafted and implemented, NCSSA seeks the following changes to Australia's Commonwealth environmental law and its implementation:

1. For the EPBC Act to be **replaced with new Commonwealth environmental laws** that truly protect and restore our natural environment, strengthen our democracy and support community involvement,
2. For the Commonwealth to **expand the Matters of National Environmental Significance**, particularly through protection for the National Reserve System,
3. To effectively achieve biodiversity conservation, use and then evaluate tools that **avoid cumulative impact** and adopt a **broader interpretation of 'biodiversity conservation'** than is supported by narrowly confining considerations to 'significant impact' on current Matters of National Environmental Significance,
4. A requirement for **adequate resourcing to be made available** to administer the Act, including mandatory funding for threatened species and ecological community recovery,
5. Establishment of a set of **national environmental accounts**, and
6. Improvement of **threat abatement planning and implementation**.

Please refer to the following pages for our specific comments on (and supporting evidence for) each of these improvements.

Influencing conditions on the Review and its recommendations

The Discussion Paper for this Review speculates on what the future might look like, in order to ensure any recommendations are 'fit for the future'. 'More extreme weather events' were forecast and have since been realised in the form of the 2019/2020 catastrophic bushfires, which burnt vast tracks of the country including the majority of the Flinders Chase National Park on Kangaroo Island. This event highlights that our natural environment is vulnerable to large-scale, sudden, stochastic events and that therefore we must retain

[4] https://www.epa.sa.gov.au/soe-2018/land/key-messages

redundancy and diversity within our biological systems in order that they be resilient to these types of threats. For example, species should be present in sufficient numbers in the landscape so that they can persist through catastrophic events and regenerate or recolonise areas once the habitat has suitably recovered. Scientific reviews suggest that the minimum population size requirements to ensure both long-term persistence and evolutionary potential is thousands (not hundreds) of individuals, in order for a population to have an acceptable probability of riding-out environmental fluctuations and catastrophic events and ensuring evolutionary processes (Lochran et al. 2010).

The current Coronavirus pandemic was not a scenario included amongst the forecast in the Discussion Paper, a reminder that ultimately, the future is uncertain. It has, however, demonstrated that humans are able to respond quickly to threats to our survival. Our society is collectively taking sudden, dramatic steps to protect ourselves and our loved ones from illness, and in so doing we have slowed the economic growth predicted on page 13 of the Discussion Paper. The environmental crisis we face shares similarities with the Coronavirus pandemic in that it is imperative that we make difficult choices now, for example to limit our consumption of natural resources and our impact on the natural systems that support us to what is truly sustainable, in order to protect the generations to come.

If you would like to clarify or discuss any of the points raised in this submission please contact me on (08) 7127 4633 or via email at julia.peacock@ncssa.asn.au.

Yours sincerely,

Julia Peacock
Nature Advocate

NCSSA submission to EPBC Act Review – improvements sought to national environmental legislation

1. For the EPBC Act to be **replaced with new Commonwealth environmental laws** that protect and restore our natural environment, strengthen our democracy and support community involvement

As a member of the Places You Love Alliance, NCSSA believes the EPBC Act needs to be replaced with new Commonwealth environmental laws that protect and restore our natural environment, strengthen our democracy and support community involvement.

The new national environmental framework should be built on five key principles:

- National leadership
- A central role for communities in decision making
- Trusted and independent institutions, including a National Environment Commission and a National Environment Protection Agency
- Delivering strong environmental outcomes
- Ensuring resilience in the face of climate change

Establishing independent institutions would be a key plank in reforming our national environmental governance. A **National Environment Commission** would be a body independent of departmental or ministerial direction, reporting annually to parliament on the state of the environment. It would undertake a range of tasks, including developing and overseeing national environmental plans and standards as well as progressing the development of National Environmental Accounts (see number 5 of this submission for expansion of this requirement).

A **National Environment Protection Authority** would be the new Commonwealth assessment, approval and enforcement body for environmental issues that are nationally important. It would undertake a range of tasks including assessments, approvals and refusals of activities that affect environmental issues of national importance as well as fulfilling an independent compliance, audit and enforcement role.

NCSSA notes that the establishment of an independent National Environment Commission was recommended by the Hawke Review:

> 'Following consideration of the role and functions of the current advisory bodies, it was noted that there is no body that can provide advice to the Minister for the purposes of making decisions arising out of the environmental impact assessment and approvals regime. An independent National Environment Commission should be established…' (Hawke 2009).

2. For the Commonwealth to **expand the Matters of National Environmental Significance**, particularly through protection for the National Reserve System

NCSSA believes that the Commonwealth government should expand the scope of environmental matters over which it provides oversight and makes decisions in order to achieve more holistic biodiversity conservation. This includes protection for the National Reserve System, as well as ecosystems currently under-represented in the reserve system, as outlined below.

Protection for the National Reserve System

NCSSA is a member of the National Parks Australia Council (NPAC), a national body that coordinates and represents the views of a range of State and Territory non- government organisations concerned with protecting the natural environment, particularly national parks. NPAC calls for Australia's outstanding network of protected areas, collectively referred to as the National Reserve System (NRS), to be added to the Matters of National Environmental Significance protected under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) or equivalent new Commonwealth law.

The National Reserve System plays a central role in implementing Australia's international obligations under the Convention on Biological Diversity, in particular Australia's obligations under Article 8 of the convention with respect to in situ conservation, and makes the most significant contribution to the Australian Government's obligation under the EPBC Act to conserve biological diversity and ecosystem integrity (s.3A(d)).

Including national parks and other high biodiversity protected areas as a trigger under the EPBC Act will ensure consistent protection of these areas. Under current settings, protection from the Commonwealth depends on the presence of existing Matters of National Environmental Significance, such as nationally listed threatened species, with the result that the biodiversity values of a reserved area that fall outside of this narrow scope can be destroyed or degraded by an activity without any mechanism for Commonwealth intervention.

There are currently 360 terrestrial public reserves or parks declared under various pieces of legislation in South Australia including the *National Parks & Wildlife Act 1972* and the *Wilderness Protection Act 1992*, covering over 20% of the state, as well as 19 Marine Parks which cover 44% of our state waters. These areas protect and conserve many Matters of National Environmental Significance currently listed under the EPBC Act, including threatened species and ecological communities, migratory species, Ramsar listed wetlands as well as world and national heritage sites. Although these areas are recognised for their important role in biodiversity conservation, there are a number of issues concerning their ongoing management including, in many cases, a lack of resources and data to inform management to ensure biodiversity values are being maintained.

Of particular concern is that South Australia's parks and reserves are not fully protected from development. Wilderness Protection Areas provide the highest level of protection for nature, whilst most National Parks are "jointly proclaimed", meaning exploration and mining activities can still be approved. South Australia's vast Regional Reserves, which make up almost half of our protected areas, are "multiple-use reserves with a conservation function" which also "permit the utilisation of natural resources", meaning activities such as exploration and mining activities, as well as the running of cattle, can be and have been approved within these areas[5]. There is also growing pressure to make park areas commercially profitable through increased nature-based tourism[6]. Unfortunately, these proposals can damage park areas and therefore threaten the biodiversity protected within them.

A recent example of this is the South Australian State Government's approval of the building of "eco-lodges", consisting of 14 separate dwellings at two sites, within the Flinders Chase National Park on Kangaroo Island. This

[5] https://www.environment.sa.gov.au/managing-natural-resources/park-management/Regional_reserves
[6] https://www.environment.sa.gov.au/topics/park-management/state-wide-park-strategies/nature-based-tourism-plan

accommodation is supposed to service the multi-day Kangaroo Island Wilderness Trail, however, the developer has sought to locate the lodges a considerable distance from the trail, on remote headlands with views of the Southern Ocean. This will lead to the clearance of pristine wilderness areas not only for the lodges themselves, but also several kilometres of tracks to service them, plus an unquantified further amount of clearance to ensure bushfire safety.

If implemented, this proposal will fragment and disturb an outstanding area of pristine wilderness, home to EPBC Act listed threatened species including Kangaroo Island Dunnarts (endangered under the EPBC Act and one of the top 20 priority mammal species in the Commonwealth's Threatened Species Strategy[7]), Southern Brown Bandicoots (endangered) and possibly the Greencomb Spider-orchid (also endangered but surveys were not undertaken at the right time of year to establish the presence of this species). Based on desk-top analysis, the developer concluded that "… habitat for any National or State listed fauna species is unlikely to be negatively affected by the proposed clearance". The proposal was not refused or modified under South Australia's legislation for land-use planning or native vegetation protection.

Under Article 8 of the Convention on Biological Diversity, parties including Australia have agreed to:

> (d) Promote the protection of ecosystems, natural habitats and the maintenance of viable populations of species *in natural surroundings*;
>
> (e) Promote environmentally sound and sustainable development *in areas adjacent to protected areas* with a view to furthering protection of these areas;[8] *(emphasis added)*

In the case of these eco-lodges, it would be feasible to build such accommodation off-park, adjacent to the protected area, but close enough to access the trail each day via already established tracks. Indeed, prior to the recent devastating bushfires on Kangaroo Island, there were already a range of accommodation options in the area, including the luxury Southern Ocean Lodge which serviced "high end" visitors. Even though the majority of the Flinders Chase National Park and much of its infrastructure was burnt in the January 2020 bushfire, the developer remains committed to building these eco-lodges[9].

It is therefore critical that the National Reserve System be added as a trigger under the EPBC Act, so that the Commonwealth is in a position to determine if the actions of State and Territory governments are consistent with Australia's commitment under the CBD to "establishing protected areas to conserve biological diversity while promoting environmentally sound development *around* these areas"[10] *(emphasis added)*.

Potential completion of the National Reserve System

Whilst over 20% of the South Australia is 'conserved' in parks and reserved, the system is not yet comprehensive, adequate and representative. There are a number of vegetation types which are under-represented: six of the 17 IBRA bioregions that occur in South Australia have less than 10 percent of their area protected within the State[11].

Australia is committed to the Aichi Biodiversity Targets through the Convention on Biological Diversity, including:

> By 2020, at least 17 per cent of terrestrial and inland water, and 10 per cent of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem services, are conserved through effectively and equitably managed, **ecologically representative** and well connected systems of protected

[7] http://www.environment.gov.au/biodiversity/threatened/species/20-mammals-by-2020/kangaroo-island-dunnart
[8] https://www.cbd.int/convention/articles/?a=cbd-08
[9] https://www.abc.net.au/news/2020-01-23/kangaroo-island-lodges-to-be-pursued-despite-bushfires/11890048
[10] https://www.cbd.int/doc/publications/cbd-sustain-en.pdf
[11] Conserving Nature 2012-2020, available from https://www.environment.sa.gov.au/topics/park-management

areas and other effective area-based conservation measures, and integrated into the wider landscapes and seascapes protection should be extended to these under-represented vegetation types[12] (emphasis added).

Although Australia protected area system exceeds 17% of terrestrial and inland water[13], these areas are not fully ecologically representative. The Commonwealth therefore needs to protect adequate areas of these under-represented bioregions that are not yet formally reserved in order to allow for the potential to complete our National Reserve System. If this action is not taken, habitats that require protection may be lost before there is an opportunity to formally include them in the protected areas system. Mapping and defining these areas could be a task for the newly established National Environment Commission.

It should be noted, however, that we must still conserve and adequately manage areas containing habitats already well represented in the National Reserve System. Excessive clearance of currently common vegetation types risks more habitat types to become endangered into the future.

[12] https://www.cbd.int/sp/targets/
[13] https://www.environment.gov.au/land/nrs

3. To achieve 'biodiversity conservation' in practice, use and then evaluate tools that **avoid cumulative impact** and to adopt a **broader interpretation of 'biodiversity conservation'** than is supported by narrowly confining considerations to 'significant impact' on current Matters of National Environmental Significance

Most species that go extinct do so gradually as a result of a range of factors often working incrementally and in combination, or a 'death by a thousand cuts'. The need to prove that any one action has a 'significant impact' is a weakness of the Act in terms of achieving protection for threatened species. Once populations are no longer viable in size and require a high level of management, it is very easy for small events (e.g. droughts or fires) to push them to extinction. Indeed: *"Each threatened and endangered species, with a few exceptions, owes its special status to a series of small decisions"* (Odum 1982).

Further, protecting only threatened species and ecological communities from 'significant impact' is an overly reductionist interpretation of 'biodiversity conservation' which has failed in practice. A broader interpretation of 'biodiversity conservation' is needed in order to achieve adequate protection, and NCSSA believes the current 'Heads of agreement on Commonwealth and State roles and responsibilities for the Environment' allows for this through the clause:

> 'The Commonwealth has a responsibility and an interest in relation to meeting the obligations of the Convention on Biological Diversity and the objectives of the *Endangered Species Protection Act 1992* to promote the recovery of species and ecological communities that are endangered or vulnerable, and *prevent other species and ecological communities from becoming endangered*[14]' (emphasis added).

The Commonwealth must therefore include considerations of other elements of biodiversity in its decision-making, including those elements not yet threatened, to prevent them from becoming so. NCSSA suggests the following changes to address cumulative impact and to adopt a broader interpretation of 'biodiversity conservation':

- Increase the use of **bioregional plans**, which give Commonwealth, State and Local Governments the opportunity to map areas of environmental significance (such as critical habitat, see below) across bioregions and make decisions about the need for protection of those areas. The Commonwealth has the power to make bioregional plans under the EPBC Act, but it has never been used for land assessments.

  NCSSA recommends much greater use of bioregional planning to identify upfront nationally significant areas such as critical habitat, Ramsar wetlands, and national heritage. However bioregional planning provisions should be strengthened to allow the Commonwealth to identify 'no go zones' where development cannot occur, such as critical habitat, and a requirement that decision-makers make decisions that give effect to bioregional plans.

- As per our comments as (2), **protect the NRS** and areas of under-represented ecosystem types not formally conserved by including them as a MNES.

- The protection, condition and management of **critical habitat** for threatened species and communities are probably the most important issues for their survival. The lack of formally protected critical habitat constitutes a major threat. Targeted levels of protection (overlap of reserves with species' ranges) have been found to be less than 20% for Australian EPBC threatened species, with plants one of the most poorly represented taxonomic groups (Watson et al. 2011).

[14] https://www.environment.gov.au/resource/heads-agreement-commonwealth-and-state-roles-and-responsibilities-environment#Attachment_1

NCSSA believes that in decision making under the EPBC Act (or new Commonwealth law), all known and potential habitat for threatened species and all known areas of threatened ecological communities should be considered 'critical' and any impacts on them therefore 'significant', subject to regulation.

The Commonwealth cannot rely on States and Territories prevent more species and ecological communities from becoming threatened. In South Australia, under legislation designed to protect remnant native vegetation, approval has been granted to clear over 18,600ha (or 186 km^2) between 2011 and 2019 according to annual reports from the Native Vegetation Council[15]. NCSSA regularly comments on applications for clearance approval, and has found that even large clearances and clearances in sensitive environmental areas have failed to 'trigger' the EPBC Act. As a result, native vegetation clearance in the State continues at an unsustainable rate, and our biodiversity continues to decline.

[15] https://www.environment.sa.gov.au/about-us/our-reports/annual-reports

4. A requirement for **adequate resourcing to be made available** to administer the Act, including mandatory funding for threatened species and ecological community recovery

Inadequate resourcing has been a major impediment to the functioning of the EPBC Act since its inception, and was described in the Hawke Review as follows:

> 'Concerns about the capacity of the Department of the Environment, Water, Heritage and the Arts (DEWHA) to resource the activities necessary to ensure efficient and effective operation of the Act were also pervasive. These concerns were shared, one way or another, by all sectors consulted' (Hawke 2009).

This applies to all aspects of administering the Act and needs to be corrected across all aspects of the regulatory regime. Any redrafting or amendments to improve the legislation therefore also needs to address the provision of adequate resources for administration.

NCSSA has a particular interest in additional resourcing for recovery planning, listing of threatened species and ecological communities and compliance, as described below.

Recovery planning and implementation

NCSSA supports the recovery of threatened species and ecological communities in South Australia, such as the Yellow-Footed Rock Wallaby described on the first page of this submission. Our experience has been, however, that while recovery plans are important for organising information and guiding overall recovery efforts, there can be a tendency for plan development to overshadow implementation. Also some plans tend to be overly administrative and focus on statutory and bureaucratic particulars rather than on species ecology and the specific actions required to recover threatened species.

Threatened species recovery is a long term problem that requires ongoing, stable financial investment. Governments are major providers of financial support for nature conservation programs, but funding is often provided in a piecemeal and extremely competitive way. Ongoing, stable financial support is particularly important for the establishment of the multi-year, multi-partner, landscape-scale programs which are needed to truly address threats to all biodiversity, including threatened species.

Funding for actions listed under recovery plans for threatened species should therefore be mandated, as per the U.S.A.'s *Endangered Species Act 1973*. Mandating funding for recovery has led to much better biodiversity conservation outcomes: the U.S.A.'s track record in recovery far exceeds Australia's, with 39 species de-listed due to recovery.

Relative to the scale of biodiversity loss, it has been asserted that Australia underspends on biodiversity conservation relative to other countries of comparable wealth (Waldron et al. 2017). The total required is estimated to be between U.S.$684m/year and 1.27b/year (AU$911m/year to 1.69b/year). Funding Australian threatened species recovery at the upper end of this range, which is likely a more realistic estimate for achieving recovery, would require in an approximately 20-fold increase in funding in Australia compared with current expenditure (Wintle et al. 2019).

Listing of threatened species and ecological communities

The identification and listing of threatened species and ecological communities is central to the biodiversity conservation provisions of the EPBC Act as currently drafted, however, NCSSA believes this important function is under-resourced. As outlined in the report from the Senate Inquiry into the effectiveness of threatened species and ecological communities' protection in Australia (2012), the following changes are needed:

- the list requires regular, systematic review at least every 5 years,
- funding to be provided for species that are not listed due to data deficiency so that adequate information on their status can be collected,
- provisions for 'emergency listing' be drafted so that protection can be granted prior to a formal listing assessment being concluded, and
- a requirement for critical habitat to be identified at the time of listing.

Compliance

NCSSA considers the current resources for compliance with the EPBC Act to be severely lacking, and we understand there have been ongoing budget and staff reductions within the Commonwealth environment

department. We are concerned that this translates to low compliance with the EPBC Act, including with respect to conditions of approval being adhered to. This concern was the basis for our recommendation in 2009 that a monitoring strategy be developed and implemented, to allow for the proper evaluation of decision making under the Act, the level of compliance with it, and the appropriate use of enforcement. Such a strategy should monitor the outcomes of all actions including non-controlled (no particular manner) actions. Without a comprehensive monitoring strategy there is no evidence on which to evaluate the performance of the Act, no justification for the investment made in administering it, and limited opportunity to improve its efficiency and effectiveness. To date, we are not aware of such a strategy being developed and implemented.

Finally, we believe current penalties need to be substantially increased and a wider range of compliance tools implemented across both the public and private all sectors to prevent adverse impacts on threatened species, populations, ecological communities and their critical habitat.

5. Establish a set of **national environmental accounts**

A particular area of interest for our Society, and one that specifically requires long-term, stable financial and institutional support, is monitoring; that is, collecting adequate scientific information to identify trends in biodiversity in general and threatened species in particular, as well as to support decision-making in relation to specific actions such as proposed developments or land use planning. The lack of effective monitoring and reporting has been raised in every jurisdictional State of the Environment report, and multiple other reports and papers, as a major impediment to understanding the state and trends of Australian biodiversity[16]. Particularly, the failure to monitor the biodiversity outcomes of what are often substantial investments in conservation programs, like the former National Heritage Trust, is in stark contrast to investments in health and education where monitoring and testing have been undertaken in a co-ordinated manner for over a century (Lindenmayer et al. 2012).

Part of the task of the National Environmental Protection Authority described in (1) of this submission must therefore be to support monitoring. The remit of the Authority should include a legislative mandate to report on an array of relevant biodiversity measures and it should be resourced to use cutting edge science and modelling systems (the Bureaus of Meteorology and/or Statistics may provide a good model for these aspects of the National Environmental Protection Authority's remit). The National Environmental Protection Authority would invest in strategically selected, long-term biodiversity monitoring programs, and could also better curate existing long-term datasets, develop national standards for monitoring, broker partnerships between individuals and organizations, and foster succession planning in existing long-term programs (Lindenmayer et al. 2012).

NCSSA notes the Hawke Review found that:

> 'Australia does not have reliable, comprehensive environmental information systems available for mapping, monitoring, forecasting and reporting on environmental conditions. The lack of this critical information base not only has a negative impact on the nation's capacity to monitor the effectiveness of environmental policy interventions, but also results in a considerable cost burden on industry.
>
> The Review recommends development of a set of national environmental accounts that are based on regional information.' (Hawke 2009).

[16] https://soe.environment.gov.au/theme/biodiversity/key-findings?year=96#key-finding-120231

6. Improve **threat abatement planning and implementation**.

NCSSA has long held an interest in threat abatement for biodiversity conservation and have contributed to the development of various threat abatement plans over the past 2 decades. We concur with the Invasive Species Council (ISC) that threat abatement is an efficient and cost-effective way to protect and recover threatened species and ecological communities. As outlined in the ISC submission, we cannot save species and ecological communities without dealing with major threats – including invasive species, habitat loss, altered fire regimes, altered hydrological regimes and livestock grazing.

We concur with ISC that the listing of Key Threatening Processes (KTP) under the EPBC Act should be systematic, scientific and include a focus on emerging threats. It should be supported by a mandatory national response to KTPs and comprehensive monitoring and reporting to track KTPs and abatement progress.

Due to the extremely high number of harmful invasive species already established in Australia, NCSSA supports the establishment of a new system for invasive species, as outlined in the ISC submission. Separate to the existing KTP process, all established exotic species in Australia would be systematically assessed and categorised by an expert for invasive species as the basis for action to prevent and minimise harm to biodiversity as well as non-environmental values (such as agriculture, human health and tourism). Threat abatement plans would be developed and implemented for those species that meet the criteria for listing as a KTP.

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Attachment A – NCSSA submissions on various issues related to operation of the EPBC Act and related Commonwealth legislation:

- the Senate Inquiry into Australia's fauna extinction crisis (September 2018)
- the targeted review of the interaction of the EPBC Act and agriculture (June 2018)
- the independent review of the 'water trigger' legislation (2016),
- the Senate Inquiry into environmental biosecurity (2014),
- the Senate Inquiry into environmental offsets (2014),
- various Senate Inquiries between 2013 and 2014 on amendments to the EPBC Act,
- the Senate Inquiry into the effectiveness of threatened species and ecological communities' protection in Australia (2012), and
- the independent statutory review of the EPBC Act in 2009.