

Chapter 4

Conclusions and recommendations

4.1 Australia is one of the most biodiverse countries in the world, with a rich variety of fauna. Our biodiverse environment is central to our wellbeing, the health of our economy, and our national identity. While Australia is home to several iconic species known around the globe, we also have many species we are yet to fully understand. Estimates suggest that, at present, there are 250 000 faunal species in Australia, with around 120 000 of these yet to be scientifically documented and described.¹

4.2 However, against the richness of Australia's natural environment, our damning track record of faunal extinction and decreasing biodiversity is stark. The most recent State of the Environment Report observes a continuing trajectory of decline in mammal species, and a very significant slump in populations of birds, concluding that:

Based on the information available about vegetation extent and condition, and the small number of species for which there is some understanding of trends in distribution and abundance, the status of biodiversity in Australia is generally considered poor and deteriorating.²

The adequacy of the EPBC Act

4.3 This interim report has focussed on the legislative foundation of Australia's management and protection of the environment over the last two decades, the *Environment Protection and Biodiversity Act 1999* (EPBC Act).

4.4 Evidence received by the committee has raised serious questions about whether the EPBC Act is still fit for purpose and is in fact achieving the objectives set out in the Act. It is also clear that the EPBC Act is struggling to meet the scale of the challenge our environment faces, including the threats to our faunal species.

4.5 Evidence considered in chapter 2 of this report overwhelmingly showed that Australia's rate of faunal extinction has continued to increase since the introduction of the EPBC Act.

4.6 This evidence indicated that the EPBC Act is incapable of addressing many of the principal drivers of faunal population decline, even if there have been positive

1 Department of the Environment and Energy, 'Fauna Project Area', www.environment.gov.au/science/abrs/publications/fauna (accessed 15 March 2019).

2 Australian Government, *State of the Environment 2016*, 'Overview of state and trends of biodiversity', <https://soe.environment.gov.au/theme/overview/biodiversity/topic/overview-state-and-trends-biodiversity> (accessed 15 March 2019).

steps in a number of areas, including managing feral populations. These drivers are complex and include the loss, degradation and fragmentation of habitat, the threats posed by invasive species, and the effects of climate change. It is also clear that the cumulative impacts of these drivers are a major contributor to species decline, even if these cumulative impacts are notoriously hard to quantify and address, and that in its current form, the EPBC Act has no compulsory mechanism to address cumulative impacts.

4.7 The committee understands these are complex and inter-linked factors in species decline, and that the framework of the EPBC Act would need a complete overhaul to be adequate for the current challenge. The committee also notes that there have been significant failures in its implementation, including use and resourcing of compliance and protection mechanisms, and that these would need to be addressed in a new or revised Act.

4.8 The committee heard compelling arguments for the development of a new Environment Act, as this report discussed in chapter 3. Critics of the EPBC Act highlighted its complexity, noting that even professionals in the sector found its provisions difficult. The committee also received evidence on the gradual dilution of the Act's initial strengths.

The need for new environmental laws and a federal environmental protection agency (EPA)

4.9 The committee notes that the EPBC Act is 20 years old and has not been significantly reformed. There is also no independent institution to administer and oversee Australia's framework for environmental approvals and compliance.

4.10 Without new environmental legislation, Australia will continue to struggle to address the current rates of faunal extinction in the future. Moreover, it was also evident that the current approach will not be able to address the ongoing broader challenges to the environment that Australia faces, including the profound, deepening effects of climate change.

4.11 Any new legislation should also seek to incorporate international best practice, while adapting this to our local needs. New environmental laws should be developed with a mind to the large volume of work already undertaken on what changes would be required to effectively address the threats to Australian fauna.

4.12 New environment laws should be developed with broad consultation, not only with stakeholders in the environmental sector, but also scientific and legal experts, industry and employer groups, unions, and the broader Australian public. As jurisdictions will continue to administer large parts of Australian environmental law, the states and territories are integral to the development of any new legal frameworks. The Commonwealth must also recognise the fundamental role that Indigenous Australians play in environmental management, and thus in the development of any new environmental legislation.

Recommendation 1

4.13 The committee recommends that to limit the drivers of faunal extinction, the Commonwealth develop new environmental legislation to replace the *Environment Protection and Biodiversity Conservation Act 1999*.

4.14 The committee considers that a new legislative approach to managing and protecting Australia's environment should contain provision for an independent EPA. This should be given sufficient powers, resourcing and funding to assess activities, and ensure compliance and enforcement.

Recommendation 2

4.15 The committee recommends that the Commonwealth establish an independent Environment Protection Agency (EPA), with sufficient powers and funding to oversee compliance with Australia's environmental laws.

Future work of the committee

4.16 This interim report is focussed on setting out some aspects of the broad challenge faced by Australia's threatened faunal species, as well as considering the adequacy of the EPBC Act's current provisions for managing the environment.

4.17 The committee has received a large amount of evidence that it has not fully considered in this interim report. This includes many instances where the provisions of the EPBC Act are not being implemented effectively. It also includes information about many instances where existing laws are failing to protect threatened species that are at risk of extinction.

4.18 Although this report has recommended the Commonwealth develop a new legislative framework for Australia's environment, the committee notes that the second statutory review of the EPBC Act is due to commence no later than October 2019. As developing a new Act will take time, this review will provide an ideal opportunity to reconsider in depth the adequacy of the EPBC Act, and where its implementation can improve, including regarding threatened faunal species, as an interim measure.

4.19 The committee will maintain an ongoing interest in this review of the EPBC Act and its implementation, as well as the development of any new legislative approach by the Commonwealth.

4.20 The committee also notes its hopes that the work undertaken in this inquiry will be continued in the next Parliament, should the future committee and Senate agree to do so.

Senator Janet Rice
Chair

