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## **Victorian National Parks Association submission into Australia's faunal extinction crisis**

**Monday 10<sup>th</sup> September**

Dear Senate Standing Committees on Environment and Communications,

Thank you for the opportunity to provide feedback to the Senate's Inquiry into Australia's faunal extinction crisis.

The Victorian National Parks Association (VNPA) is a leading community conservation organisation and has been advocating for the protection of Victoria's biodiversity for over 60 years.

The VNPA is deeply concerned about Australia's faunal extinction history and current crisis that sees the list of threatened species continue to grow. Although our current federal environment laws are failing to protect and conserve our biodiversity, there are significant opportunities for reform to turn this around.

We would like to address the following terms of reference:

- a) the ongoing decline in the population and conservation status of Australia's nearly 500 threatened fauna species;
- c) the international and domestic obligations of the Commonwealth Government in conserving threatened fauna;
- d) the adequacy of Commonwealth environment laws, including but not limited to the Environment Protection and Biodiversity Conservation Act 1999, in providing sufficient protections for threatened fauna and against key threatening processes;
- h) The adequacy of existing funding streams for implementing threatened species recovery plans and preventing threatened fauna loss in general

### **a) The ongoing decline in the population and conservation status of Australia's nearly 500 threatened fauna species;**

Australia, like the world, is in the midst of an extinction crisis. In the last 200 years Australia has had one of the worst extinction records in the world, leading on mammal extinctions with 27 confirmed extinctions since European settlement. Since 2009 three animals alone (Bramble Cay Melomys,

Christmas Island Pipistrelle and Christmas Island Skink) have gone extinct, whilst the number of species or sub-species listed as threatened continue to increase.

In Victoria, the picture is worse. Since European settlement:

- Over 50 percent of the state's native vegetation has been cleared;
- 18 species of mammal, 2 birds, 2 snakes, 3 freshwater fish, 6 invertebrates and 51 plants have become extinct within Victoria;
- Between one quarter and one third of all of Victoria's terrestrial plants, birds, reptiles, amphibians and mammals, along with numerous invertebrates and ecological communities, are considered threatened with extinction.

The key drivers of species loss include habitat clearing and fragmentation, invasive species, climate change, inappropriate fire regimes, disease, pollution, over-exploitation and disease. Furthermore, inappropriate use and development of land across all tenures is driving extinctions further. A recent study found that unless management improves Australia stands to lose another 10 birds and 7 mammals by 2038 (Geyle et al. 2018).

This is devastating and not something we want to see happen in our lifetime. Australians are passionate about protecting threatened species and their habitats, many of which dedicate their lives to the cause.

Volunteers are largely responsible for implementing monitoring programs, data collection and management actions to protect species and their habitats. Without volunteer contributions, particularly in the face of poor government funding and investment, Australia would be further behind its national and international obligations. Almost 1.3 million people volunteered their time in 2010 to the environment, animal welfare and arts/heritage sector (Volunteering Australia 2015), with the value of formal volunteering in Victoria alone in the environment/animal welfare sector worth \$99 million (Volunteer Victoria, 2006). This figure would be far greater now.

Australia has an opportunity to be a world leader in conservation and do justice to the people who invest their time to protect our threatened species. We have world-class expertise and higher-education institutions, and we have public support. We just need stronger political will.

It is not too late to halt and reverse the decline of the almost 500 threatened species, but we need to act urgently.

### **c) The international and domestic obligations of the Commonwealth Government in conserving threatened fauna;**

Australia's current environment laws do not adequately protect threatened species. Since 2000 Australia's list of nationally threatened species and ecological communities has increased by more than 30% (from 1,483 to 1,947 - as at 31 July 2018).

The primary piece of legislation for protecting threatened species nationally, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), has mostly failed in its fundamental task. This piece of legislation should prioritise protecting threatened species (as its stated objective), not facilitate development through the development approvals process at the expense of our wildlife and their habitats.

A mere 21 referred projects out of more than 6,100 have been stopped due to unacceptable impacts on matters of national environmental significance, including threatened species, since the Act came

into effect. This is primarily due to the high levels of discretion afforded to decision makers - and it needs to be over-turned.

The EPBC Act provides for the listing of critical habitat through a National Register to protect threatened species. Only 5 places are listed on the register, the last of which was added in 2005. The register's penalty provisions only apply to Commonwealth land, meaning there are no effective protections for most of Australia's critical habitat under national environmental law.

Australia has international obligations with over 50 migratory birds spending part of their year in Australia. We have a duty to these birds, and the international community, to ensure that they are protected while in our country.

Australia must uphold its obligations under the Ramsar Convention (and other international treaties) to protect its [65 Wetlands of International Importance](#), covering approximately 8.1 million hectares. Victoria is home to more than 300,000 hectares of Ramsar sites, including some of our most loved wetlands including Western Port, Barmah Forest, Hattah-Kulkyne, the western shoreline of Port Phillip Bay, the Gippsland Lakes and Corner Inlet. The Federal government provides little support for or oversight of these obligations, which it appears to delegate to the State governments, with no strings attached.

A Victorian Auditor General report in 2016 found significant flaws in the management of Ramsar sites. The report said overall governance, coordination and oversight of the management of Ramsar sites must improve for Victoria to effectively meet its obligations:

“Without this improvement, site managers will continue to be guided by their own priorities, rather than responding to key threats to Ramsar sites' ecological character.” The report recommended Victoria develop and implement robust governance arrangements for managing Ramsar sites and “strengthen management plans' to include timeframes and resourcing to ensure actions are carried out 'effectively and in a timely way’”. See: [www.vnpa.org.au/auditor-general-scathing-of-victorias-management-of-ramsar-sites/](http://www.vnpa.org.au/auditor-general-scathing-of-victorias-management-of-ramsar-sites/)

The Australian Government must take its responsibility for global conservation efforts seriously.

**d) The adequacy of Commonwealth environment laws, including but not limited to the Environment Protection and Biodiversity Conservation Act 1999, in providing sufficient protections for threatened fauna and against key threatening processes**

The Federal EPBC Act was drafted with good intent and some strong provisions, but in practice contains systemic weaknesses that are leading to poor outcomes for birds and other wildlife. The EPBC Act allows for high levels of ministerial discretion in decision making where science can be overruled and many key concepts, such as cumulative impacts, are poorly defined, leaving them vulnerable to subjective interpretation and exploitation.

We support the following Birdlife Australia statements on additional key issues with the EPBC Act including:

- **Loopholes and exemptions:** Regional Forest Agreements effectively exempt the logging industry from national environment laws, allowing Critically Endangered Swift Parrot habitat to be routinely felled.
- **Lack of national oversight:** Decisions to approve developments across Endangered Southern Black-throated Finch habitat range are being made in isolation from one another. In the last

20 years, 722 projects have been referred in Finch habitat and more than half (405) were determined to be 'Not a Controlled Action.'

- **Species Recovery Plans are systematically undermined:** When the EPBC Act was first passed into law, the listing of a species as nationally threatened triggered a legal requirement for the development of a National Recovery Plan (NRP); a document that captures current understanding of how present and past threats contributed to the species' decline and the key actions needed to recover the species. In 2007, the EPBC Act was amended to allow the Minister to decide that an NRP is not required for individual listed species. Today most listed species don't have NRPs and those that do have not been updated within the required five-year time frame.

In practice, current legislation focuses on discrete and reactive issues, typically development proposals that may impact on Matters of National Environment Significance and are not designed to address the big drivers of biodiversity decline: the loss and degradation of habitat, altered fire regimes, invasive species and climate change.

### **Case Study 1: Logging**

Current national law provides exemptions for logging activities (under regional forest agreements), despite these having serious impacts on threatened species, such as the critically endangered Leadbeater's Possum in Victoria. These exemptions are based on outdated information more than 20 years old. Detailed problems with the Regional Forest Agreements (RFA's) are reviewed in this article. <https://vnpa.org.au/regional-forest-agreements/>

The exemption for RFAs means places with even limited economic value are still exempt. Many people think that the Western Victoria Regional Forest Agreement was phased out after the historic decision by the Bracks Government to create the Great Otway National Park in 2005, which largely ended broad-scale commercial logging in the area. Yet the agreement still exists and is still part of the current review.

Even the last independent review in 2010 recommended that the Western RFA be cancelled, but as recently as mid-2017, revised ecologically-damaging logging plans have been released for targeted logging of woodlands right across the west. This includes around the Grampians, Wombat forest near Daylesford and Mt Cole west of Ballarat. Key features of this plan include:

- Will target around 60 areas of state forest and take place in areas known to harbour more than 20 threatened native animals and 14 threatened native plants
- Across western Victorian forests, 70% of the area targeted for logging contains native vegetation types that are either endangered (19%) vulnerable (11%) or depleted (40%). In the Horsham Forest Management Area, 54% of the vegetation is endangered.
- Threatened species have been found either within or near 33 percent of planned logging coupes, even higher in some regions.
- Of the 20 threatened mammals found in or adjacent to logging coupes, 6 are EPBC listed species, and of the 14 threatened plants listed, 8 are EPBC listed. See page 25 of the full report [www.vnpa.org.au/wp-content/uploads/2017/06/Western-Forests-and-Woodlands-at-Risk-Full-Report.pdf](http://www.vnpa.org.au/wp-content/uploads/2017/06/Western-Forests-and-Woodlands-at-Risk-Full-Report.pdf)

### **Case Study 2: The Hooded Plover**

The Hooded Plover is listed as the one of the Federal Government's 20 priority bird species, including commitments to improve the trajectories by 2020. This priority species is listed as

vulnerable under the Federal EPBC Act. In Victoria, this priority shore-nesting bird relies on significant coastal habitats, of which the Belfast Coastal Reserve is listed as the second most important site across Victoria (SWIFFT).

Recent approval in the final management plan for the Belfast Coastal Reserve allows the training of 175 racehorses or more per day in the reserve, directly on or in the vicinity of significant Hooded Plover breeding sites. This risks the survival of the birds through racehorses churning up the sand, disturbing the adult birds and chicks, crushing eggs and destroying protective fencing.

#### Failure of the current system

The failings of the current Federal EPBC Act provides too much discretion to responsible ministers, allowing them to refer matters back to the state, make poor decisions or, even worse, no decision at all. It also does not deal well with cumulative impacts from individual actions of developers, which escape triggering an approval decision by the Federal Government.

Given the most significant action to protect the Hooded Plover is focussed on reducing human-induced pressures on nesting sites, it is absurd that the Federal Government does not have the impetus to step in and intervene with bad decisions from state governments, in this case the Victorian Government.

After concerned Victorian community groups' sought action from the Federal Government on the impacts of commercial racehorse training on the federally listed Hooded Plover by referring the matter to the Federal Minister for Environment and Energy in October 2016, this was the response from the department:

*"Matters relating to the use and management of public land are primarily the responsibility of state and territory governments. The Australian Government regulates proposals that significantly impact on matters of national environmental significance protected by the Environment Protection and Biodiversity Conservation Act 1999.*

*Under the Act, an individual action can only be considered if it has, will have or is likely to have a significant impact on a matter of national environmental significance.*

*The horse training activities being undertaken in the reserve as individual actions are unlikely to result in a significant impact to matters of national significance. **The possible cumulative impact of multiple individual actions is not covered by the Act, and is instead addressed through state and territory legislation"***

The way the Act is currently interpreted is discretionary, and the Federal Department seems to avoid action by hiding behind statements such as these and referring it back to the state.

#### How a new system would help Hooded Plovers and their beach habitats

A stronger EPBC Act which deals with the cumulative impact of individual actions (i.e. individual horse trainers, or in Victoria's case a large racing club training a minimum of 175 horses per day) is needed.

The EPBC Act should be stronger and address the following:

- The cumulative impact of multiple individual actions as part of the Act, requiring proper assessment by the Federal Government,
- Removal of discretionary impetus for responsible Ministers to act and replacement with a requirement to act.

This would result in the Federal Government's ability to intervene and potentially disallow bad decisions by state governments – in this case disallowing commercial horserace training on Victorian public beaches.

### **Case Study 3: The Leadbeater's Possum and Swift Parrot**

The Leadbeater's Possum and Swift Parrot are listed as a Critically Endangered under the federal Environment Protection and Biodiversity Conservation Act. A critically endangered listing by the Federal Government means these species are at risk of extinction, and should be protected and recovered under national environment law.

The primary threat driving both species toward extinction is the logging of important habitat. This logging is regulated through long term Regional Forest Agreements (RFA) which exempt logging industries from national environmental law. This exemption removes Commonwealth oversight for the protection of threatened species that occur within an RFA region.

The present system for protecting threatened species is fundamentally flawed. Despite their national critically endangered status, the key threat contributing to these species' decline is being legally exempted from national environmental protections.

<http://www.placesyoulove.org/wp-content/uploads/2018/05/Report-Case-Study-1-threatened-species.pdf>

### **Threatening Processes**

The current terms of reference, while focusing on the role of national laws on threatened species recovery, have missed the key role this legislation has in managing threatening processes.

Under the EPBC Act the Commonwealth can, among other things:

- List [key threatening processes](#). These processes threaten, or may threaten, the survival, abundance or evolutionary development of a native species or ecological community. Examples of invasive species key threatening processes that cover individual threats include rabbits, foxes, cats, pigs, unmanaged goats, rodents on islands, red imported fire ants, *Phytophthora cinnamomi*, Psittacine beak and feather disease, and chytrid fungus.
- Examples of key threatening processes that cover multiple or broad threats are 'Land clearance' and 'Novel biota and their impact on biodiversity'. Some individually listed key threatening processes for invasive species are considered to be covered by the 'Novel biota and their impact on biodiversity' key threatening process. These separate listings are considered warranted by the Threatened Species and Scientific Committee;
- Develop and implement [threat abatement plans](#) (TAPs). These plans outline the research, management and other actions necessary to reduce the impacts of a listed key threatening process on affected listed threatened species and ecological communities.

While a range of feral species such as pigs and goats are listed as key threatening processes, deer, which are a major ecological problem in Victoria, have a very real potential to spread widely across Australia. They are included in the broad 'Novel biota and their impact on biodiversity' listing, which presents a framework, but it does not appear to have the important and necessary specific actions needed for control of deer. It is also unclear how a threatening process can be used to trigger specific action by the Federal Government

<http://www.environment.gov.au/biodiversity/threatened/key-threatening-processes/novel-biota-impact-on-biodiversity>

#### **Case study 4: Inappropriate fire regimes**

We are now in a situation in Victoria where increased wildfire (brought about by habitat alteration and climate change), is accompanied by a considerable increase in planned burning for fuel reduction or other reasons. In Victoria, this has produced an ecologically intolerable situation whereby “about 50% of the vegetation [on Victoria’s public land] was below its minimum TFI [tolerable fire interval] in 2016-17, as it has been for a decade”. See *Reducing Victoria’s Bushfire Risk – Fuel Management Report (2016-17)* Department of Environment, Land, Water and Planning, p. 11. [https://www.ffm.vic.gov.au/\\_data/assets/pdf\\_file/0025/88450/DELWP0064\\_FuelManagementReport\\_2017\\_v6\\_web\\_accessible.pdf](https://www.ffm.vic.gov.au/_data/assets/pdf_file/0025/88450/DELWP0064_FuelManagementReport_2017_v6_web_accessible.pdf)

A number of recent research papers now highlight likely long-term impacts on Victoria’s biodiversity resulting for the increased extent and frequency of fire. For example, recent research into this situation in central Victoria showed that widespread recent fire can have significant impacts on important structural elements in forests and woodlands, most critically by a reduction in coarse woody debris on the ground. Fallen logs provide essential habitat for a large range of small mammals, reptiles and insects, which in turn are critical food for a wide range of birds. Even low-intensity burns can destroy hollow logs on the ground, which may take decades, in some cases a century or more, to re-establish.

See: Holland et al. *Prescribed burning consumes key forest structural components: implications for landscape heterogeneity*. *Ecological Applications* 27 (3), 2017 pp. 845-858. Ecological Society of America.

#### **Case study 5: Deer expansion across Australia**

The six deer species currently in Australia will spread across the continent (see distribution maps below), possibly quite quickly given current population levels. **It will be an invasion rivalling cane toads in its seriousness.** Engagement by the federal government (largely missing now) and engagement by states subject to future deer invasion, is necessary and inevitable, but it may come far too late under current legislative triggers.

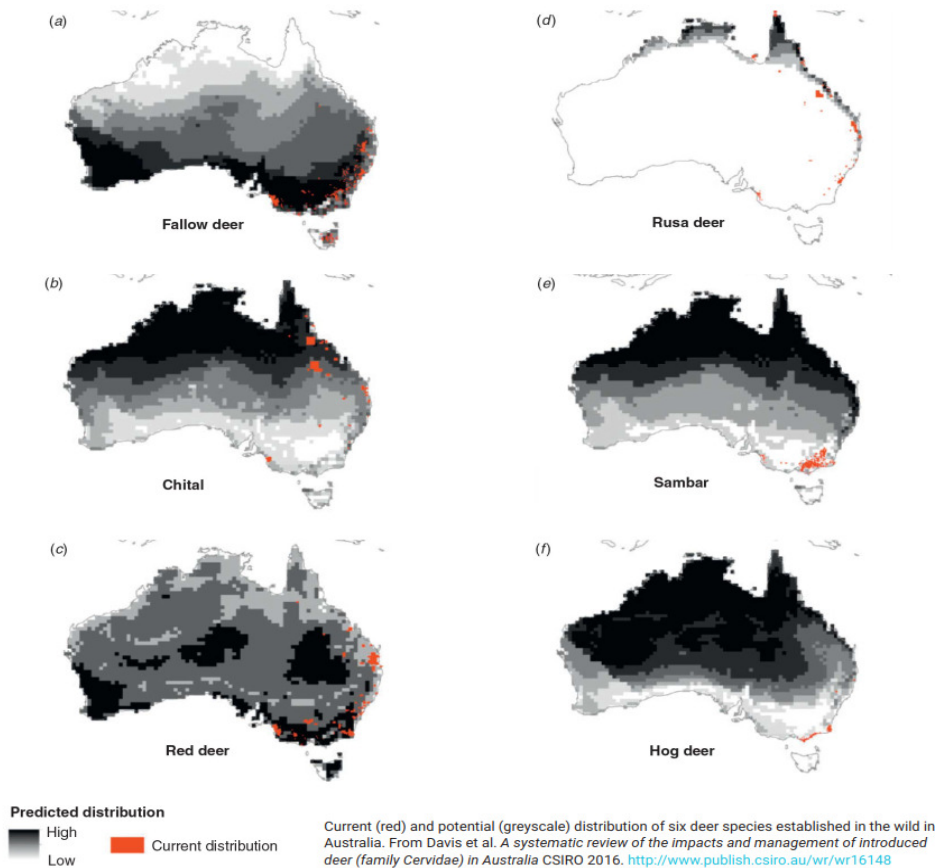
It is highly unlikely that deer will be brought under control without employing new controls. Advantage should be taken of the many research bodies that have the capacity to engage in research into novel, deer control options. Appropriate and effective funding should come from both the Victorian and federal governments, and support from other currently affected jurisdictions, such as NSW, the ACT and Tasmania, should be sought. Research options should include biological controls; genetic controls; the development of targeted baiting; and other deterrents.

Recommendation 11 (and, oddly, also Rec 31) from the 2017 Victorian Parliamentary (ENRC) Inquiry into the Control of Invasive Animals on Crown Land asks the Victorian Government to seek federal assistance in researching control methods:

**RECOMMENDATION 11:** That the State Government raise, during a Council of Australian Governments forum (or other inter-governmental meeting), the need for urgent funding to research methods and techniques to control deer that could be practically implemented in Victoria.

**RECOMMENDATION 31:** That the Government raise the issue of research into controlling deer with the Council of Australian Governments and request the Federal Government initiate comprehensive research into control methods.

See predicted deer distribution maps below produced by CSIRO:



### Case Study 6: National parks should become a ‘matter of national environmental significance’

Despite the pivotal role of national parks in conservation (and despite the ‘national’ in their name), they are not a matter for which the federal government takes responsibility. There is a clear legal rationale for the federal government to have a greater role, as national parks help fulfil international obligations under the Convention on Biological Diversity. VNPA and other groups recommend that national parks become a ‘matter of national environmental significance’ under the EPBC Act:

VNPA outlines the case in our Nature Conservation Review, Chapter 5, Environmental Governance <http://vnpa.org.au/wp-content/uploads/2014/02/NCR-Chapter5.pdf>

The National Parks Australia Council (NPAC) (of which VNPA is a member) outlines this in their report, *National Parks, a matter of national significance*: [www.drive.google.com/file/d/11BK1JampeNrnLQcyym1JkQaunR-WwCiY/view](http://www.drive.google.com/file/d/11BK1JampeNrnLQcyym1JkQaunR-WwCiY/view)

NPAC, established in 1975 are 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 and furthering national parks. NPAC has also produced the following reports:



## Research papers of the National Parks Australia Council

The National Parks Australia Council presents a series of five research papers to influence public debate and government decision making concerning the enhancement and management of Australia's terrestrial and marine estate.

- Maintaining the Values of Australia's National Reserve System of Protected Areas
- Completing Australia's National Reserve System of Protected Areas
- Enhancing Landscape Connectivity
- National Parks - a Matter of National Environmental Significance
- Australia's Marine Protected Areas

## The need for law reform

National leadership is necessary for protecting native wildlife in Australia, including strong national laws, policies and increased funding for species recovery.

To fix the shortcomings listed above, requires significant law reform consisting of:

- The Australian Government should institute a complete overhaul of the national environment laws to protect threatened species, backed by strong and independent national institutions; including:
  - An independent National Environmental Protection Authority that operates at arm's-length from government to conduct transparent environmental assessments and inquiries as well as undertake monitoring, compliance and enforcement actions;
  - An independent National Sustainability Commission that develops enforceable national environmental protection standards, bioregional plans as well as recovery and threat abatement plans;
  - New laws should include a legislated requirement to develop science-based recovery plans for all threatened species that are enforceable, binding, and require climate impact assessment for species and their critical habitat.
- Australia's environment laws must ensure permanent protection of threatened species habitat by:
  - Ending land clearing and logging of old growth and high conservation value native vegetation;
  - Protecting ecosystems of national importance to protect species before they become threatened;
  - Establishing a new national critical habitat register which applies across all land tenures;
  - Ensuring that the registering of critical habitat occurs within 12 months of a species being added to the national threatened species list.
  - Additionally, this should include protected areas that comprise the National Reserve System, such as national parks, on the list of Matters of National Environmental Significance under the EPBC Act. For further information see our briefing from the National Parks Australia Council [www.vnpa.org.au//npac-policy-matter-of-national-environmental-significance](http://www.vnpa.org.au//npac-policy-matter-of-national-environmental-significance) .
- Along with stronger protections, new national environment laws must guarantee community rights and participation in environmental decision making, including: open standing provisions; review of decisions based on their merits; third-party enforcement provisions; and protections from cost orders in public interest proceedings.

**h) The adequacy of existing funding streams for implementing threatened species recovery plans and preventing threatened fauna loss in general**

The Federal Government must significantly increase resources into recovery plans and threat abatement implementation, including establishing a Recovery Fund with an annual investment of \$200m to implement recovery plans.

The National Reserve System goals which have not been met include the under-representation of more than one third of bioregions and ecosystems. This is particularly important for enabling partnerships to purchase private land. The Federal Government must support the strategic expansion of Australia's National Reserve System to protect threatened species habitats, with an annual investment of at least \$170m per year. This would allow Australia to properly meet our international commitments.

Further information from the National Parks Australia Council:

[www.vnpa.org.au/npac-policy-completing-australia's-national-reserve-system-of-protected-areas](http://www.vnpa.org.au/npac-policy-completing-australia's-national-reserve-system-of-protected-areas).

The Australian Government must also commit to prompt, transparent and regular release of data on the state and trends of threatened species, the state of and impacts on critical habitat of threatened species, and outcome-focused monitoring of species conservation efforts and funding.

Thank you for the opportunity to comment.

Yours sincerely,

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