Submission to the Senate Inquiry on 'The effectiveness of threatened species and ecological communities' protection in Australia'

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We **do not** want this submission to be treated as **confidential** and/or **anonymous.**

This submission does not contain personal information of third party individuals.

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Introduction

The Nature Conservation Society of South Australia (NCSSA) is a community based, not for profit organisation with a diverse membership drawn from all parts of the State. The Society's primary objective is to "foster the conservation of the State's wildlife and natural habitats through effective scientific research and education".

Since its' inception in 1963, the NCSSA has taken an active interest in the protection of South Australia's natural resources and the Society continues to run a variety of highly regarded biodiversity conservation projects. These projects target critical gaps in knowledge and action and include: improving the understanding of biodiversity within the community; on-ground action towards the recovery of threatened flora undertaken through the Threatened Plant Action Group (TPAG); supporting land managers to restore habitat on private and public land through the Bush Condition Monitoring (BCM) program; collecting and communicating high quality scientific and technical information (e.g. Mount Lofty Bird Woodland Bird Survey); and contributing to the formation and review of natural resource management policy.

The NCSSA welcomes the opportunity to provide a submission to the Senate Inquiry on 'The effectiveness of threatened species and ecological communities' protection in Australia' and commends the Australian Government for commissioning this inquiry.

The NCSSA offers the following comments for consideration by the Senate Standing Committee:

(a) Management of key threats to listed species and ecological communities;

The NCSSA recognises the significant progress that has been made in addressing key threats to listed species and ecological communities by Federal and State Governments, non-government organisations (NGOs), community groups, landholders and contractors. There is, however, still an urgent need for ongoing effort and long-term investment in management and monitoring of threats and ecological responses to ensure that the biodiversity gains made through previous investments are maintained and that new and emerging threats are appropriately managed to prevent further species decline.

The NCCSA are currently involved in a long-term project with the University of Queensland and the Adelaide Mount Lofty NRM Board that aims to assess the evidence for declines in woodland birds (including nationally and state listed species) through repeated surveys of over 150 sites throughout the Mount Lofty Ranges (MLR). The project was initiated by Professor Hugh Possingham in 1999 and is now managed by the NCSSA including co-ordinating annual surveys (largely volunteer based) as well as securing funding. The MLR Woodland Bird Survey is a long-term stratified annual survey of the birds of the Mt Lofty Ranges of South Australia. The primary purpose of the survey is to detect trends in woodland birds in response to anticipated climate change, the extinction debt and restoration and rehabilitation of habitat by NRM bodies. This is one of the few systematically designed long-term regional surveys of biodiversity in Australia. Key threats to the MLR woodland bird species include habitat loss and degradation through historic clearance of vegetation, the expansion of residential development in rural areas, the invasion of habitats by woody weeds, wildfire, changing fire regimes, and possibly grazing. Since it commenced, the project has demonstrated that there has been a decline in the nationally listed Chestnut-rumped Heathwren and a number of state listed species based on a comprehensive and rigorous monitoring program. Ongoing monitoring will assist in determining trends in woodland birds in relation to threatening processes.

A short description of the survey and its intent can be found in a recent article in the NCSSA quarterly newsletter 'Xanthopus' at the webpage:

http://www.uq.edu.au/spatialecology/docs/Publications/2008_Possingham_Xanthopus_WhyMonitor.pdf

Further information on the MLR Bird project can be found at:

http://www.ecology.uq.edu.au/index.html?page=74232&pid=66440

The recovery of the Yellow-footed Rock-wallaby in the Flinders, Gawler and Olary Ranges of South Australia provides another example of how ongoing funds are required to manage threats and maintain viable populations in the future. Threat abatement programs aimed at reducing the impact of Feral Goats and predation by European Foxes commenced in the early 1990's and have continued to the present with funds from both Federal and State Governments. The program is led by the Department of Environment, Water & Natural Resources (DEWNR) but undertakes threat abatement works across public and private land including National Park Reserves, pastoral leases and privately managed conservation areas such as Arkaroola Sanctuary in the northern Flinders 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 by DEWNR since the early 1990's. However, the areas where threats are 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 inability to completely eradicate them from the landscape, ongoing funds will be required to maintain the biodiversity gains achieved and protect previous investment.

The NCSSA believes it is vitally important that such long-term monitoring projects are established and continued so that impacts from emergent threats as well as the results of threat mitigation can be evaluated effectively.

(b) Development and implementation of recovery plans;

The NCSSA support the recovery planning process under the EPBC Act and believe that recovery plans fulfil the functions of guiding recovery actions for threatened species and guiding NRM decision makers.

However, the NCSSA believes that there has been too great an emphasis on planning at the expense of implementation. While recovery plans are useful documents, they do not make tangible progress in recovery of species and communities without implementation. Investment in recovery planning cannot be justified if there is insufficient investment in implementation including rigorous monitoring and evaluation programs.

(c) Management of critical habitat across all land tenures;

The NCSSA recognises the advances that have been made over the past decade through programs such as NatureLinks and DEWNR's Protected Areas on Private Land policy directions in increasing areas managed for conservation outcomes. At present South Australia's protected area system covers approximately 25,000,000 hectares on public and private lands, which is almost 26 per cent of the State. It includes over 340 national parks and formal conservation reserves, nearly 1500 Heritage Agreements and 80 Sanctuaries. Protected areas on private land (including Co-managed Parks and Indigenous Protected Areas) cover around 6.7 per cent of the State.

In recent years, a number of large pastoral leases in South Australia have been acquired by non-government organisations such as Australian Wildlife Conservancy, Bush Heritage Australia and Nature Foundation to establish private protected areas. These, and other private protected areas, are helping to deliver regional and statewide conservation goals from South Australia's Strategic Plan, including NatureLinks and No Species Loss targets, through complementing the public reserve system and contributing to the restoration and protection of natural systems across the broader landscape.

There are, however, still many areas of critical habitat for listed species and ecological communities that are either unprotected or at risk of degradation from infrastructure development, mining exploration or clearance of remnant native vegetation (both legal and illegal) that could impact on species persistence, long-term viability of populations, decline in distribution and condition of native vegetation communities.

The condition of many of these areas continues to decline with an increasing number of threats and diminishing resources to manage them. In South Australia, monitoring of trends in condition of these areas is also typically non-existent or poorly coordinated.

(d) Regulatory and funding arrangements at all levels of government;

(i) Commonwealth Legislation Pertaining to Listed Species and Ecological Communities

Environment Protection and Biodiversity Conservation Act 1999

The NCSSA believes that the criteria for determining significant impact to trigger this Act are comprehensive and allow for the indirect impacts of an action to be considered, however, in practice the interpretation of these criteria has not been sufficiently rigorous and cautious. Actions which are likely to have a significant impact on the recovery of listed threatened species and ecological communities have gained approval due to a reluctance to employ the precautionary principle. The NCSSA is aware of a number of examples to support this claim, which can be provided confidentially on request.

Unfortunately it is often the case that the impact of an action on a matter of national environmental significance cannot be conclusively evaluated. Low detectability of species and the complexities of defining critical habitat are two factors that contribute to this uncertainty. It is vitally important that the precautionary principle is applied in circumstances where there is uncertainty or lack of information.

The NCSSA considers the recent changes to this Act regarding strategic assessments go some way toward addressing the issue of the cumulative effect of 'non-significant' impacts on matters of national environmental significance. In the past numerous actions, which individually have a 'small' impact on a particular matter of national environmental significance, could be approved without regard to whether the sum of these impacts

(their combined effects) resulted in significant damage. The strategic assessments process remains untested in South Australia so it is unclear whether it will achieve the desired outcome.

Penalties for breaching the Act are not high enough as they are unlikely to be sufficient deterrents for large businesses and in most cases they have fallen short of the real cost of repairing the damage caused.

The NCSSA recommends:

- all controlled actions and non-controlled (particular manner) actions are audited;
- more investment is made in using the Act to prosecute breaches; and
- penalties for breaching the Act are increased.

(ii) State Legislation Pertaining to Listed Species and Ecological Communities

National Parks and Wildlife Act 1972

This Act provides for protection of representative areas of the state's diverse flora, fauna including nationally and state listed species and ecological communities and is administered by DEWNR. Since its' inception, the NCSSA has been a strong advocate for protection of the State's biodiversity through establishment and management of protected areas. The NCSSA continues to be actively engaged in public consultation on the development of management plans for Reserves proclaimed under this Act where numerous listed species and ecological communities are known to occur. DEWNR has recently changed the format of these management plans so that they no longer contain specific information on how listed species and ecological communities will be managed and monitored under the Management Plan. The NCSSA considers that management plans for these areas are only one component of Reserve management and that implementation of required management actions to conserve and protect biodiversity assets and monitoring of population/condition trends is often inadequately resourced with regards to threatened species and ecological communities.

Native Vegetation Act 1991

This Act provides for the protection of native vegetation, both for its own sake and as habitat for listed threatened species and to regulate clearance of native vegetation.

In September 2009, amendments to the Native Vegetation Regulations introduced Regulation 5(1)(lb) which enables clearance of native vegetation to be exempt, where that work is necessary to protect public safety. Consistent with clearance for the protection of life and property from bushfire, clearance for public safety under Regulation 5(1)(lb) does not require a Significant Environmental Benefit. In 2011/12, the NCSSA collected information and prepared a report on the impact of a 12 month trial of the 'Interim framework for the Application of Regulation 5(1) (1b) for Clearance Along Roadsides, Intersections and Rail Crossings for Public Safety Purposes'. The report concluded that the Interim Framework allowed significant biodiversity values to be lost including remnant habitat for listed species, without being offset.

Recommendations from the report that relate to the current Senate Committee Inquiry are as follows:

- This regulation and its guidelines exempt some clearance from SEB offsets, which effectively provide an incentive to clear native vegetation and a disincentive to employ other risk mitigation measures with potential impacts on listed species and ecological communities. This undermines the effectiveness of the SEB offset scheme as a market instrument to minimise the loss of native vegetation.
- We also note that there is no reference made to the Environment Protection and Biodiversity Conservation Act (EPBC) 1999. It is our understanding that roadside clearance could contravene this Act in some instances, and thus we recommend reference to this Act is included in the assessment process and background information.

Natural Resource Management (NRM) Act 2004

This Act was established to promote sustainable and integrated management of the State's natural resources and to make provision for the protection of the State's natural resources. It is a key piece of legislation covering the protection of biodiversity (including listed species and ecological communities) and the resources that plants and wildlife depend on. The Act also covers the control of some of the threats to biodiversity such as pest plants and animals, excessive grazing pressure and extraction of groundwater. Based on past experience the NCSSA considers that compliance issues in relation to the NRM Act are at times inadequately resourced and/or enforced with regards to threatened species and ecological communities.

There are eight NRM regions in South Australia each with a Board that is responsible for administering the Act. The NCSSA has worked closely with the Adelaide and Mount Lofty Ranges NRM Board to assist in developing an action plan to support improved collaboration on the management of natural resources in this region. The Society has also worked closely with the Eyre Peninsula NRM Board, DEWNR and other NGO's to establish priorities for biodiversity conservation though a Conservation Action Planning process in this region.

Further information on the ecological assets in the WildEyre project area including listed species and and ecological communities can be sourced at the webpage:

http://www.wildeyre.com.au/ecological-asset.html

As a general comment, the NCSSA believes that the Objects of the key pieces of legislation pertaining to conservation of listed species and ecological communities in South Australia need to be strengthened as they currently offer only limited protection for vertebrate fauna and vascular plants, with a range of taxa e.g. invertebrates and non-vascular plants not even listed.

(e) Timeliness and risk management within the listings processes;

Decisions regarding the nomination of a number of South Australian threatened species and ecological communities have not been made in reasonable time. Notable examples include the nominations for Peppermint Box Grassy Woodland and Iron-grass Natural Temperate Grassland which were finally listed approximately 6 years after the nominations were made. The timeframe represents a significant setback to the recovery of these communities, as resources could not be secured for their recovery until they were listed. Substantial inroads into recovery could have been made in this time period, but instead the decline in these ecosystems was allowed to continue relatively unchecked.

The NCSSA recommends that the process for assessing nominations for threatened species and ecological communities be improved so that species and communities of merit are recognised more quickly.

The NCSSA also recommends that the process for public nomination of critical habitat under the EPBC Act needs review as there is currently no mechanism by which this can occur. An inalienable legislative protection of critical habitat is essential for ensuring the survival of threatened species population in the long term. At a minimum, areas of critical habitat could be nominated during species or community listing processes.

(f) The historical record of state and territory governments on these matters;

As a general comment the EPBC Act in its current form provides sound protection for listed species and ecological communities but that the proposed bilateral agreements have the potential to lead to significant adverse biodiversity outcomes, particularly if State legislation and policy instruments are inadequate.

(g) Any other related matter.

Inefficient data management clouds transparency

Deficiencies in information management are a barrier to evaluating the effectiveness of the EPBC Act and the assessment processes. A recent request made to the EPBC section of the Australian Government for a list of referrals relating to a listed threatened species, could not be met. The Australian Government had no ability to search for past referrals relating to the species (other than by geographic area) and could not provide

information to identify on what evidence referral decisions were made. This information was requested for the evaluation of a threatened species recovery program and would have assisted in determining whether the implementation of the recovery program was effective and appropriate. Failure to provide this information was a failure to facilitate transparent reporting and evaluation of public investment in the administration of the Act and in the recovery program.

The Society recommends that data management and reporting processes for referral and assessment information be improved.