



7 June 2022

The Hon Tanya Plibersek
Minister for the Environment and Water
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

By email: tanya.plibersek.mp@aph.gov.au

Cc: ThreatenedSpeciesCommissioner@environment.gov.au

Dear Minister Plibersek,

Re: Coalition's discontinuation of 176 threatened species and habitat recovery plans

Our sincere congratulations on your election win and your appointment to the critical portfolio of Environment and Water. We at the National Environmental Law Association (NELA)¹ are looking forward to working with you as the new Minister and supporting you to improve Australia's environmental laws to turn around the continent's ongoing trend of environmental decline.

NELA is a peak body for advancing environmental law in Australia. We are Australia's only national, multidisciplinary, member-based association focused on environmental law and sustainability. NELA serves the needs of practitioners in law, planning, natural resources and environmental science and management.

One of NELA's objectives is to provide a forum for and otherwise assist in the discussion, consideration and advancement of environmental law among the legal profession and the wider community. With this in mind, *we are writing now to express our concern about the recent discontinuation of threatened species and habitat recovery plans*. We urge you to act quickly to restore those plans, even as you work towards implementing the recommendations of the recent Samuel review of the Environment Protection and Biodiversity Conservation Act 1999 (the EPBC Act).

The nature of Australia's biodiversity loss and species extinction crisis

As you know well, Australia is globally renowned for its unique biodiversity comprising more than 150,000 species, many of them found nowhere else on Earth. However, Australia's species and ecosystems are under unprecedented levels of threat and continue to decline. Australia's natural environments provide economic opportunities through tourism, cultural connections, ecosystem services and the ecological 'life support' that regulates the climate, diseases and our ecosystems, along with materials that have – and will – support scientific advances. Pressures including climate change,

¹ This letter was written on behalf of NELA by NELA Board Members Dr Katie Woolaston and Dr Phillipa McCormack NELA Board Members, and NELA volunteers Patrick Cenita and Alexandria Brown.

pollution, land clearing, urban development, pests and invasive species are driving biodiversity loss across the country at an alarming rate. NELA recognises that urgent action is needed to halt this loss and protect our natural heritage.

Former Minister Ley's Decision

The former Environment Minister Sussan Ley's decision to scrap the 176 recovery plans was made after the government had entered its caretaker period, after the announcement of the 2022 Federal Election. This is contrary to the Australian Government's Guidance on Caretaker Conventions December 2021, which recommends that Ministers avoid making "major policy decisions that are likely to commit an incoming government". Further, the decision was made despite all 6,701 stakeholder submissions opposing the proposed removal of the recovery plans. NELA urges the Minister to recognise the weight of those submissions and the need to restore good government decision making processes and integrity to this area of national policy, by reinstating the recovery plans.

Recovery plans serve an essential function in addressing Australia's species extinction crisis

We understand that you are being briefed on the last-minute decision by the former Coalition government to discontinue 176 threatened species and habitat recovery plans. Recovery plans are essential to addressing species extinction because they outline key information about threats, bring together coalitions of researchers and conservation managers on shared goals as well as set out the actions required to recover population numbers. Recovery plans are a central tool for promoting biodiversity and preventing species extinction. When a recovery plan is finalised, the Minister is legally bound to act consistently with that recovery plan when making determinations under section 139(1)(b) of the EPBC Act. This makes recovery plans one of the few *legally enforceable* mechanisms for protecting threatened species.

While it may be open to the new government to replace the discontinued plans with 'Conservation Advices' developed under section 266(B) of the EPBC Act, we urge you to reinstate the recovery plans rather than taking that option. NELA acknowledges that while conservation advices may serve a function in protecting and recovering threatened species populations, they are not an equivalent or adequate replacement for recovery plans. Conservation advices set a considerably lower bar in terms of obligatory protection. For example, the Minister can approve actions that cause environmental harm or fail to protect species that are the subject of a conservation advice, even if doing so is contrary to the terms of that advice.

Recovery plans need to be strengthened, not abandoned

In addition to reinstating the recovery plans that were discontinued by the former minister, we strongly encourage you to take this opportunity to commit the new government to funding and implementing these plans effectively. The effectiveness of recovery plans (and most other conservation mechanisms) has been consistently compromised by ineffective implementation and a lack of dedicated resourcing. The federal Auditor-General made this point strongly in its review of the government's implementation of Australia's threatened species legislation, finding that "*desired outcomes [were not] being achieved, due to the department's lack of monitoring, reporting and support for the implementation of conservation advices, recovery plans and threat abatement processes*".²

Monitoring systems are essential for understanding and tracking the status of threatened species and for managing the factors impacting them. In practice, very few threatened species have been monitored effectively. It is particularly concerning that the Auditor-General was unable to identify any coordinated

² Department of Agriculture, Water and the Environment (2022) Management of Threatened Species and Ecological Communities under the Environment Protection and Biodiversity Conservation Act 1999. The Auditor-General (Report No.19 2021–22) Performance Audit.

performance measures in place for threatened ecological communities or the abatement of key threatening processes.³

Conservation management in Australia remains grossly underfunded. It is estimated that annual expenditure for the prevention of species extinction is in the range of \$41m to \$400m per year.⁴ Comparatively, the US spent \$2.03b on conservation actions targeted at threatened species in 2016. The US Endangered Species Act lists 1671 species as threatened, while the EPBC Act lists 1775 species as threatened.

An extensive body of literature has covered the importance of species conservation to our economy and health. However, Australia continues to lose more species to extinction compared to other developed nations.⁵ Our legally enforceable systems for protecting threatened species need to be strengthened, not abandoned. The management of threatened species requires long-term commitment and consistency to have successful outcomes. We urge the Minister to reinstate and strengthen recovery plans as a matter of urgency.

NELA thanks the Minister for considering our views on this matter. Please do not hesitate to contact us if we can be of further assistance.

Yours faithfully,

Matt Floro



NELA President

Dr Katie Woolaston



NELA Vice-President

³ Ibid.

⁴ Brendan Wintle et al, 'Spending to save: What will it cost to halt Australia's extinction crisis?' (2019) [12](#)(6) *Conservation Letters* 1-7; Anthony Waldron et al, 'Targeting global conservation funding to limit immediate biodiversity declines' (2013) 110(29) *Proceedings of the National Academy of Sciences* 12144–12148.

⁵ Anthony Waldron et al 'Reductions in global biodiversity loss predicted from conservation spending' (2017) 551 *Nature* 364-367.