



Australian National Audit Office
GPO Box 707
Canberra ACT 2601
By online submission

12 November 2021

Dear Australian National Audit Office (ANAO),

RE: Submission regarding Management of Threatened Species and Ecological Communities under the EPBC Act

The Australian Land Conservation Alliance (ALCA) welcomes the opportunity to provide a submission to the ANAO's audit of Management of Threatened Species and Ecological Communities under the EPBC Act.

Please note that ALCA is happy for this submission to be published in full.

[About the Australian Land Conservation Alliance](#)

ALCA represents Australia's leading land restoration and conservation organisations working with landholders on privately owned and managed land across Australia. Together, ALCA's members represent a substantial and growing voice in Australia's land management sector. Our eleven members are:

- Australian Wildlife Conservancy
- Biodiversity Conservation Trust NSW
- Bush Heritage Australia
- Greening Australia
- Landcare Australia
- Nature Foundation SA
- Queensland Trust for Nature
- South Endeavour Trust
- Tasmanian Land Conservancy
- The Nature Conservancy Australia
- Trust for Nature (Victoria)

ALCA land conservation efforts stretch across over 3 million square kilometres with more than 3000 landholders. We have over 50,000 supporters and our combined annual turnover exceeds \$200 million. Together we work to support some of the most pressing conservation issues across the country – including restoring endangered ecosystems, building the protected area estate, and using natural solutions to tackle climate change.

Key findings

Recovery Plans

1. Recovery Plans should remain a mandatory requirement of listing a threatened species or ecological community and should not be replaced by Conservation Advices as is currently being proposed by the Department of Agriculture, Water and the Environment¹.
2. The Federal Government should provide additional resourcing to ensure its obligations to list threatened species and ecological communities and develop and support Recovery Plans are met and are timely.
3. Greater coordination and transparency should be generated to ensure seamless integration of the multiple planning streams including Regional Planning, Recovery Planning and Threat Abatement Planning.

An enlarged role for Critical Habitat in recovery efforts

4. As a related issue, the identification of ‘critical habitat’ within Recovery Plans and their relationship to the Register of Critical Habitat requires greater transparency and improved standards.
5. Critical habitat identified by recovery teams or in Recovery Plans should be assessed by the Threatened Species Scientific Committee and subsequently listed on the Register of Critical Habitats.
6. The Federal Government should review and update the process for rapidly identifying and listing critical habitat in response to large-scale disturbance events such as the 2019-2020 bushfires.

Regional planning

7. Improved Regional Planning should be adopted, as recommended in the Samuel EPBC Act review². Further integration of the multiple levels of conservation planning is an important step to ensure efficient threat abatement and conservation management work hand in hand.

Transparency and accountability

8. Where Ministers or other decision makers are exercising discretion, the reasons for those decisions should be made readily available for public consideration and scrutiny.
9. For example, minutes of Threatened Species Scientific Committee meetings should be published.

¹ See: ‘Proposed changes to conservation planning decisions’, Department of Agriculture, Water and the Environment; <https://haveyoursay.awe.gov.au/recovery-plan-decisions>

² See Recommendation 25(b): Samuel G (2020), Independent Review of the EPBC Act 1999; <https://epbactreview.environment.gov.au/resources/final-report/recommendations>

Recovery Plans and Conservation Advices

As highlighted in ALCA's submission to the Samuel Review of the EPBC Act Review³, recovery plans are the key instrument in the Act to drive improvements in conservation status, yet less than half of Australia's nationally-listed threatened species have recovery plans in place and many existing plans are unfinished or significantly out of date.

Instead of the proposed switch to a much greater reliance upon Conservation Advices, the current lengthy delays in preparing Recovery Plans should instead be a trigger to invest more strategically in the planning processes, as recommended by the Samuel EPBC Act review⁴.

Recovery Plans need to be a mandatory, not discretionary, requirement of listing a threatened species or ecological community, including detailed recovery goals, actions, estimated timeframes to achieve goals and milestones, and metrics to measure progress.

If this cannot be achieved, then national level strategic plans, supported by shorter action plans for specific species, should be considered. However, as Conservation Advices do not reach even this threshold of detail, they should be used to supplement rather than to replace Recovery Plans.

Adequate funding for planning and implementation of recovery plans is vital, and it is ALCA's view that funding resource shortfalls continue to be the most significant impediment to the timely development and implementation of Recovery Plans. This is easily remedied, unlike many of the more intractable threats facing Australian biodiversity.

An enlarged role for Critical Habitats in recovery efforts

In addition to the importance of the timeliness in the development of Recovery Plans, an important opportunity exists for the Department to improve its transparency and standards in identifying 'critical habitat' within Recovery Plans and its relationship to the Register of Critical Habitat.

The under-utilisation of critical habitat provisions is in stark contrast with the *US Endangered Species Act of 1973* where critical habitat listings have been used extensively and have a marked improvement in the likely recovery of threatened species populations⁵. The Nature Conservancy has proposed that critical habitat identified by recovery teams or in recovery plans be assessed by the Threatened Species Scientific Committee with subsequent listing on the Register.

There is also a broader need to review the process for rapidly identifying and listing critical habitat in response to large-scale disturbance events that might make remaining undisturbed habitat highly important in a short space of time. The unprecedented 2019-2020 bushfires of southern and eastern Australia highlights this issue. The size of the area burnt and intensity of the fire has meant that the majority of habitat for a large number of threatened species was impacted, and this placed – and continues to place – high conservation value on the unburnt refuges that remain.

Considering the importance of unburnt refuges, applying the precautionary principle may mean that many or most unburnt areas within or adjoining fire scares would qualify as critical habitat, even without full surveys of these refuges to determine species occupancy or immediate suitability.

³ See: ALCA (2020), ALCA submission to the Independent Review of the EPBC Act 1999;

<https://alca.org.au/wp-content/uploads/2020/06/ALCA-Submission-to-the-Samuel-Review.pdf>

⁴ See Recommendation 25: Samuel G (2020), Independent Review of the EPBC Act 1999; <https://epbcactreview.environment.gov.au/resources/final-report/recommendations>

⁵ Taylor, M., Suckling, K. and Rachlinski, J. (2005) The effectiveness of the Endangered Species Act: A quantitative analysis. *BioScience* 55: 360-367.

A more structured approach to critical habitat listing, particularly following situations as experienced in these bushfires – with large amounts of habitat burnt for a large number of threatened species and the need for quick action, with, at times, limited data – would bring increased certainty to species recovery efforts, to industry and to private landholders alike, and ensure recovery efforts are best spent where needed⁶.

Regional planning

ALCA wants to stress and applaud the recommendation for improved Regional Planning in the Samuel EPBC Act review. Further exploration of how the multiple levels of conservation planning integrate is an important step to ensure efficient threat abatement and conservation management work hand in hand.

Transparency and accountability

The community needs to have confidence that processes under the *Environment Protection and Biodiversity Conservation Act* are being applied fairly and consistently. It does not currently have this confidence. Where Ministers or other decision makers are exercising discretion, the reasons for those decisions should be made readily available for public consideration and scrutiny. For example, minutes of Threatened Species Scientific Committee meetings should be published.

Thank you again for the opportunity to provide feedback on the ANAO's *Management of Threatened Species and Ecological Communities under the EPBC Act* audit. ALCA and its member organisations are available to engage with the ANAO in further detail as required to assist in improving the quality and timeliness of listing and recovery efforts for species and ecological communities.

Australian Land Conservation Alliance

⁶ Fitzsimons, J.A. (2020), Urgent need to use and reform critical habitat listing in Australian legislation in response to the extensive 2019-2020 bushfires. *Environmental and Planning Law Journal* 37: 143-152.