



Legal Practice Section

26 March 2018

National Biodiversity Strategy Secretariat
Department of the Environment and Energy
GPO Box 787
Canberra ACT 2601

By email:

Dear Secretariat

Submission re Draft of Australia's Strategy for Nature 2018 - 2030

1. This submission has been prepared by the Australian Environmental and Planning Law Committee of the Law Council's Legal Practice Section (**the Committee**).¹ The Committee welcomes the opportunity to respond to the National Biodiversity Strategy Secretariat in relation to *Australia's strategy for nature 2018-2030: Australia's biodiversity conversation strategy and action inventory* published by the Department of the Environment and Energy.
2. The 2016 Commonwealth State of the Environment report concluded that "Australia's biodiversity is under increased threat and has, overall, continued to decline."² The Law Council is concerned that the current range of laws and policies designed to address biodiversity loss, conservation and protection have not been adequate to prevent significant detrimental impacts on Australia's biodiversity. It supports initiatives to make improvements in that area.
3. The Committee has reviewed the Draft Strategy. It has also had the benefit of considering a comprehensive submission in response to the Draft Strategy prepared by the National Environmental Law Association (**NELA**)³.
4. The Committee supports the vision stated in the Draft Strategy that:

Australia's nature, now and into the future, is healthy and resilient to threats, and valued both in its own right and for its essential contribution to our health, wellbeing, prosperity and quality of life.

¹ The Law Council of Australia is a peak national representative body of the Australian legal profession. It represents the Australian legal profession on national and international issues, on federal law and the operation of federal courts and tribunals. The Law Council represents 60,000 Australian lawyers through state and territory bar associations and law societies, as well as Law Firms Australia.

² Ian Cresswell and Helen Murphy, *Australia State of the Environment 2016: Biodiversity*, Independent report to the Australian Government Minister for the Environment and Energy (2017).

³ National Environmental Law Association, *Submission to the review of the draft of Australia's Strategy for Nature 2018-2030*, 21 March 2018.

5. However, for reasons which are well articulated in the NELA submission, the Committee does not believe the Draft Strategy in its current form will be effective in achieving that vision.
6. In particular, the Draft Strategy:
 - fails to adequately address key findings and recommendations arising from the five-year review of Australia's Biodiversity Conservation Strategy 2010-2030;⁴
 - does not include clear, measurable, scientifically-based targets to guide decision making and the investment of resources; and
 - does not sufficiently emphasise the serious consequences of biodiversity loss or the urgency of action to reverse its decline. The Draft Strategy must be strengthened to implement as its primary goal protection of biodiversity and building natural resilience.
7. The Committee believes that the NELA submission effectively highlights deficiencies in the Draft Strategy and provides valuable suggestions for its improvement. The Committee endorses those suggestions, and strongly recommends that the Draft Strategy be revised to:
 - expand the National Reserve System to provide protection for a comprehensive, adequate and representative network of bioregions, having regard to sites known to provide habitat for endangered species and projected impacts of climate change;
 - strength Australia's suite of environmental laws and policies to provide adequate protection for species and habitat outside the National Reserve System;
 - develop a more effective and coordinated bioregional planning for both the terrestrial and marine environments - this planning should also support the development and implementation of a revised National Wildlife Corridors Plan;⁵ and
 - provide more funding overall, and more strategic allocation of funding, for biodiversity projects, including recovery planning, management of reserve areas (including climate adaptation activities), and investigation of rehabilitation and translocation opportunities.
8. The Committee notes that the statutory 10-year review of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) is likely to commence in the coming 12 months and intends to participate actively in that review. We ask the Secretariat to consider deferring finalisation of the Draft Strategy until that review has been finalised, as issues raised regarding the overarching environmental law framework will have clear implications for the content and delivery of a national biodiversity strategy.

⁴ Department of the Environment, Australian Government, *Report on the Review of the first five years of Australia's Biodiversity Conservation Strategy 2010–2030* (2016).

⁵ The Law Council also notes the work undertaken by the Australian Panel of Experts on Environmental Law in advocating for bioregional planning: Australian Panel of Experts on Environmental Law (APEEL), *Terrestrial Biodiversity Conservation and Natural Resources Management Governance: Technical Paper 3* (2017).

9. The Committee would welcome the opportunity to discuss the Draft Strategy and options to strengthen its content to better achieve the vision of a healthy and resilient natural environment.

Contact

10. Please contact Ms Jess Feehely, Chair, Australian Environmental and Planning Law Committee at in the first instance.

Yours sincerely

Jonathan Smithers
Chief Executive Officer