

The Case for a New Generation of Australian Environmental Laws

The Environment Protection and Biodiversity Conservation Act 1999 is neither protecting the environment nor conserving biodiversity. Together with the Places You Love Alliance and guided by the work of the Australian Panel of Experts on Environmental Law, BirdLife Australia is calling for a new national environmental framework with four key elements:

- 1. National environment laws that genuinely protect Australia's natural & cultural heritage**
- 2. An independent National Sustainability Commission**
- 3. An independent National Environmental Protection Authority**
- 4. Guaranteed community rights & participation in environmental decision making**

How laws are failing our birds

National environmental laws are failing to protect and restore Australia's biodiversity. With hundreds of birds now threatened with extinction, and successive national State of the Environment reports concluding that threats are significant and increasing, it's time for real change.

Key Issues

The Environment Protection and Biodiversity Conservation Act 1999 (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:

- **Loopholes and exemptions:** Regional Forest Agreements (RFAs) effectively exempt the logging industry from national environment laws, allowing Swift Parrot habitat to be routinely felled over the last 20 years. In 2015, this species was declared Critically Endangered and is projected to go extinct within 14 years.
- **Ministerial discretion in decision making:** Despite mounting evidence of the importance of NSW's Tompalin Woodlands for the Critically Endangered Regent Honeyeater, and the Minister having powers to revoke or change conditions under the EPBC Act, attempts to rezone this habitat have proven unsuccessful because of a lack of political will.
- **Lack of national oversight & cumulative impacts:** Decisions to approve developments across Southern Black-throated Finch habitat range are being made in isolation from one another. Since the EPBC Act came into effect, 722 projects have been referred in Finch habitat and more than half (405) were determined to be 'Not a Controlled Action'.
- **Lack of compliance and enforcement:** Despite the known importance of pine trees as a food source for Carnaby's Black-Cockatoo, 15,000 hectares have been harvested without replacement (or referral under the EPBC Act) in plantations north of Perth. The subpopulation dependent on this habitat has declined by more than 50% since 2010.
- **Lack of transparency & community rights:** A clearly unacceptable development proposed within the Moreton bay Ramsar site was declared a 'controlled action' after being deferred an unprecedented 6 times, withdrawn and then resubmitted by the proponent. Neither the reasons for the repeated deferral nor an explanation as to why the almost identical second proposal progressed so quickly were made public.
- **Species Recovery Plans are systematically undermined:** As the list of threatened species has grown, funding for the development and implementation of Plans has declined. Today, most listed species don't have Recovery Plans. For those that do, most are out of date and fail to be implemented.

For more information see BirdLife Australia's report – *Restoring The Balance: The Case For A New Generation Of Australian Environment Laws (2018)*

