



Environmental  
Defenders Office



**PART OF THE DEFENDING THE UNBURNT SERIES**

**Nominating and listing threatened species  
impacted by the 2019-2020 bushfire season**

**JUNE 2021**

# Defending the Unburnt

## Nominating and listing threatened species impacted by the 2019-2020 bushfire season

June 2021

This Fact Sheet summarises action underway to assess bushfire impacts on native animals, and to list as threatened, or uplist a species' threatened status, as part of bushfire recovery responses.

It includes links to further information on legal mechanisms that are available to list or uplist fire-impacted species as threatened under relevant Commonwealth and New South Wales, Queensland and Victorian laws.

### INTRODUCTION

#### *Impacts of the 2019-2020 bushfires season on native animals*

The bushfire season of 2019-2020 was unprecedented in terms of scale, intensity and duration in Australian bushfire history. The bushfires had a devastating impact on our natural environment:

- In NSW bushfires burnt over 5.52 million hectares of land.<sup>1</sup> The fire ground in NSW covered approximately 7% of the state, including 2.7 million hectares in national parks (37% of the NSW park system), and habitat of more than 293 threatened animals and 680 threatened plants has been impacted.<sup>2</sup>
- In Victoria bushfires impacted more than 1.5 million hectares.<sup>3</sup> Analysis indicates that 244 species have more than 50% of their modelled habitat within the burnt area, including 215 rare or threatened species and nine ecological vegetation classes (EVCs) with more than 50% of their extent burnt.<sup>4</sup>
- More than 7 million hectares were burnt in bushfires in Queensland.<sup>5</sup> Impacts in Queensland are still under assessment.<sup>6</sup>

While it is difficult to estimate the exact number of native animals impacted by the fires, some experts originally predicted it could be as many as 800 million in NSW and one billion nationally,<sup>7</sup> with more recent analyses suggesting as many as three billion nationally.<sup>8</sup> The time required for recovery of threatened and sensitive species after average fires ranges from around 10 years up to 120 years for some species.<sup>9</sup>

Identifying and protecting species whose populations have been drastically impacted by the fires is an important part of the bushfire recovery and is critical for the long-term survival of impacted species. This may include listing or uplisting (to a higher category) species as threatened under relevant Commonwealth or state laws.

#### ***Threatened species***

Existing legal mechanisms can be used to nominate, assess and list species as threatened. A hierarchy of 'categories' allows species to be listed or 're-listed' according to their assessed conservation status (e.g. extinct, critically endangered, endangered, vulnerable).

While legal provisions do vary between jurisdictions, a **Common Assessment Method** has been adopted by Commonwealth, state and territory governments to introduce consistency for assessment processes and lists.

All jurisdictions covered in this Fact Sheet allow any person to nominate a species for assessment and possible listing in one of the relevant categories. **Each jurisdiction has its own information to guide persons on how to make a nomination, including what information is required.** In general, nominations must address the relevant legal criteria for listing a species as threatened in an appropriate category, and include evidence to support eligibility. This usually requires scientific expert input to support a nomination.

Once listed, threatened species may be afforded additional legal protection, for example, via offence provisions that prohibit certain actions that would impact threatened species, or development assessment processes that require impacts on threatened species to be considered. Threatened species may also benefit from priority management and investment as part of species recovery initiatives. **Protections and management initiatives for listed threatened species vary in each jurisdiction.**<sup>10</sup>

As outlined below, each jurisdiction has done work on analysing the impacts of the 2019-2020 bushfires, and has considered how its bushfire response may include an assessment or reassessment of the conservation status of threatened species. **For individuals or groups interested in nominating species impacted by the 2019-2020 bushfires for listing, EDO suggests contacting the relevant Department in the first instance to determine whether a species is already under consideration or whether any specific information could support a nomination.**

## COMMON ASSESSMENT METHOD

The Common Assessment Method (**CAM**) establishes a single method for assessing species for listing that satisfies both Commonwealth, and state and territory requirements, allowing eligible species to be listed on both the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) threatened species list and relevant state or territory threatened species lists. The CAM adopts consistent categories and criteria across all jurisdictions. It is based on the best practice standard developed by the International Union for Conservation of Nature (**IUCN**), as used to create the Red List of Threatened Species, with some amendments to suit the Australian context.<sup>11</sup>

Currently, the Commonwealth Government and all state and territory governments (except South Australia) have signed a Memorandum of Understanding agreeing on the CAM.<sup>12</sup>

Key elements:

- The EPBC Act list will contain threatened species from all jurisdictions assessed as eligible under the EPBC Act using the CAM. State and territory lists will only include those species that occur in their jurisdiction.
- To achieve consistency and avoid confusion, species will be listed in the same category in each participating jurisdiction; currently listed species will be progressively transitioned to an

appropriate and agreed national threat category and all new assessments in participating jurisdictions will be undertaken using the common assessment method.

- The agreed categories are: Vulnerable, Endangered, Critically Endangered, Extinct in the Wild, or Extinct. And additionally, fish can also be listed as Conservation Dependent.
- Species that have been determined to be not likely to be nationally threatened may continue to be listed by the relevant jurisdictions as a state or territory threatened species, but will not be included on the EPBC Act list of threatened species.
- A species will be assessed by only one jurisdiction (either a state or territory government, or the Commonwealth government). The outcome of that assessment may be adopted by other states and territories where the species occurs, as well as the Commonwealth Government under the EPBC Act. For example, a species that occurs in just one state may be assessed by that state, and listed on both the state and EPBC lists. A species that occurs in multiple jurisdictions may be assessed by the Commonwealth, and included on the EPBC list and the lists of each state and/or territory in which the species occurs.
- Under the CAM, species are assessed at the national scale, using the agreed criteria, categories, thresholds and definitions. For some states or territories, this is a substantial change from current practice and may require changes to administrative arrangements or legislative amendments to implement the CAM.
- Populations of species are eligible for assessment and listing if the population is geographically isolated and is distinct and able to be defined in a way that differentiates it from all other populations; and the taxon (parent) of which the population is a part is not listed as nationally threatened.<sup>13</sup>

## COMMONWEALTH

### **Post-bushfire action on assessing impacts on threatened species:**

- In March 2020, the Commonwealth government released a provisional list of animals requiring urgent management intervention.<sup>14</sup> The list was developed by the Wildlife and Threatened Species Bushfire Recovery Expert Panel convened by the Commonwealth Threatened Species Commissioner at the request of the Commonwealth Environment Minister.<sup>15</sup> The list identifies 119 species as having the highest priority for urgent management intervention, and informed the Government's response to the impacts of the 2019-20 bushfires on wildlife and habitat.
- The Commonwealth Government has provided funding to undertake mapping and monitoring of species post-bushfires and support further scientific assessment, planning and coordination, including to assess the conservation status of priority species.<sup>16</sup>
- On 25 September 2020, the Commonwealth Environment Minister announced in addition to the normal annual nomination process for threatened species, the Threatened Species

Scientific Committee (**TSSC**) would conduct a series of interim nomination and prioritisation processes over the following two years to allow further bushfire-affected species to be considered for assessment.<sup>17</sup> The Final Priority Assessment List (**FPAL**) for the assessment period commencing 1 October 2020 includes species added following the interim nomination process for the species and ecological communities which were affected by the 2019/20 bushfires, and the interim process for nominations continues.

### **Threatened species listing mechanisms:**

Part 13, Division 1 of the EPBC Act includes provisions for listing threatened species. Key elements of the process include:

- Any person may nominate a native species, ecological community or threatening process for listing under any of the categories specified in the EPBC Act.
- An annual nomination, assessment and listing process is followed. Following the 2019-2020 bushfires, the Commonwealth Environment Minister announced an interim nomination and prioritisation process.
- The TSSC established under the EPBC Act develops a Proposed Priority Assessment List (**PPAL**) of nominations for consideration by the Minister. The list may include nominations received from the public, species nominated by states and territories through the common assessment method process or species identified by the TSSC itself.
- The Minister determines a FPAL.
- Nominations on the FPAL are assessed by the TSSC and recommendations made to the Minister.
- The Minister decides whether the species, ecological community or key threatening process is eligible for listing under the EPBC Act.

Species listed under the EPBC Act are matters of national environmental significance (MNES) for the purpose of the EPBC Act.

### **Where to find more information:**

- The Commonwealth Department of Agriculture, Water and Environment [website](#) provides information on threatened species listing under the EPBC Act, including on the [nomination processes](#) and additional consideration of nominations for species and ecological communities affected by the 2019/20 bushfires.<sup>18</sup>
- See also EDO's Fact Sheet: [Commonwealth Threatened Species Law](#).<sup>19</sup>

## **NEW SOUTH WALES**

### **Post-bushfire action on assessing impacts on threatened species:**

- The NSW Department of Planning, Industry and Environment has analysed and published information on the impacts of the 2019-2020 bushfires in NSW, including most recently, the *NSW Wildlife and Conservation Bushfire Recovery: Medium-term response plan* (**NSW Recovery**

**Plan)** which includes updated post-bushfire data and a five-year plan to support the recovery of biodiversity in NSW following the 2019-2020 bushfires.<sup>20</sup>

- Action 1.3.1 of the NSW Recovery Plan requires the NSW Threatened Species Scientific Committee (**NSW TSSC**) to review the conservation status of fire affected species and ecological communities under the NSW *Biodiversity Conservation Act 2016* (NSW) (**BC Act**).

### **Threatened species listing mechanisms:**

Part 4 of the BC Act sets out the process for assessing and listing species as threatened in NSW. Key elements of the process include:

- Any person can make a nomination to list, delist or to change the status of a species, population or ecological community.
- The NSW TSSC reviews the nomination and decides whether to accept the nomination or not (e.g. because information provided is inadequate for an assessment to be completed).
- The NSW TSSC assesses the species or ecological community against the criteria in the *Biodiversity Conservation Regulation 2017* using the CAM.
- The NSW TSSC places a Preliminary Determination and Conservation Assessment Report on public exhibition, and reviews all submissions received during the public exhibition period before making a final decision.
- The NSW TSSC makes a Final Determination regarding listing, delisting or a change in threat status, or the NSW TSSC rejects the proposal.
- The relevant Schedule of the BC Act is updated to reflect the NSW TSSC's decision and this takes effect when the Final Determination is published on the NSW Legislation website. The NSW TSSC also publishes a notice of Final Determination which includes the reasons for the decision.

### **Where to find more information:**

- The NSW Department of Planning, Industry and Environment [website](#) provides information on threatened species listings under the BC Act, including the [process for nominating species](#) for listing.<sup>21</sup>
- See also EDO's Fact Sheet [Threatened Species & Ecological Communities](#).<sup>22</sup>

## **QUEENSLAND**

### **Post-bushfire action on assessing impacts on threatened species:**

- The Queensland Government's *2019 Queensland Bushfires - State Recovery Plan 2019-2022* identifies impacts of the bushfires in Queensland and recovery strategies. However, it has limited analysis and actions relating to impacts on threatened species, indicating that "*further fine scale analysis of fire extent, severity and field surveys are needed to confirm distribution and level of impact for priority species and locations*".<sup>23</sup>

- The Queensland Species Technical Committee (**STC**) is able to consider listed threatened species that require rapid reassessment, including in response to an urgent emerging threat (such as an extensive or intense bushfire).<sup>24</sup>

### Threatened species listing mechanisms:

Part 5 of the *Nature Conservation Act 1992* (Qld) (**NC Act**) sets out the processes for prescribing species as threatened. Key elements of the process include:

- Any person can nominate a species listing under the NC Act, using the appropriate [nomination form](#) provided.
- The STC assesses native species to determine their conservation status under the NC Act.
- In line with the CAM, the STC assesses listing nominations for species that occur only within Queensland. For species that cross-jurisdictions, assessments done by the Commonwealth are reviewed and endorsed by the STC prior to making recommendations to the Queensland Minister for the Environment and the Great Barrier Reef for listing under the NC Act.
- The STC may either recommend a species be listed as nominated, be listed in a different threatened species class, or not be listed in any threatened species class. The STC may also defer assessment because insufficient information has been presented to assess the nomination. In this case the STC will allow more time for the nominator to provide further information.
- Species are listed by being prescribed in regulation made under the NC Act by the Governor-General on recommendation of the Minister. Currently listed species are found in Schedule 1 of the *Nature Conservation (Animals) Regulation 2020*.

### Where to find more information:

- The Queensland Department of Environment and Science [website](#) provides information on threatened species listing under the NC Act, including a [nomination form](#).<sup>25</sup>

## VICTORIA

### Post-bushfire action on assessing impacts on threatened species:

- The Victorian Department of Environment, Land, Water and Planning (**DWELP**) has analysed and published information on the impacts of the 2019-2020 bushfires,<sup>26</sup> including its biodiversity response - *Victoria's bushfire emergency: biodiversity response and recovery - Version 2*, published in August 2020.<sup>27</sup>
- Victoria has been in the process of undertaking a Conservation Status Assessment following amendments to its *Flora and Fauna Guarantee Act 1988* (Vic) (**FFG Act**) and to bring Victoria in line with the CAM. The Conservation Status Assessment has considered impacts of the 2019-2020 bushfires. DEWLP's website indicates that "species regarded as fire sensitive have been re-considered, and some may have been upgraded to a higher status (on the basis of an increased past or future decline) if the expert assessor believes that this is warranted", however it was acknowledged that "limited access to fire areas means it will take some time to determine how these species have been affected and if their status has changed".<sup>28</sup>

### Threatened species listing mechanisms:

Part 3 of the FFG Act sets out the processes for prescribing species as threatened. Key elements of the process include:

- Any person or organisation can make a nomination for an item to be listed or removed from the list under the FFG Act.
- The Scientific Advisory Committee (**SAC**) oversees a technical assessment of public nominations and agency proposed amendments, to determine if the item is eligible for listing. The SAC can also make a nomination.
- A preliminary recommendation is published for public comments for 30 days.
- The SAC makes a final recommendation to the Minister for Energy, Environment and Climate Change and Minister for Agriculture.
- The Ministers will then make and publicise a decision.

Currently, Victoria has multiple lists of threatened species - those listed under the FFG Act, and non-statutory lists called the 'Victorian Threatened Species Advisory Lists'. Recent amendments to the FFG Act aim to remove duplication by establishing a single comprehensive list of threatened flora and fauna species and bring Victoria in line with the CAM. This work is being undertaken through a Conservation Status Assessment project.<sup>29</sup>

### Where to find more information:

- The Victorian Department of Environment, Land, Water and Planning's [website](#) provides information on threatened species listing under the FFG Act, including information on [how to make a nomination](#).<sup>30</sup>

### Endnotes

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<sup>1</sup> NSW Independent Bushfire Inquiry, *Final Report of the NSW Bushfire Inquiry*, 31 July 2020, available at <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/NSW-Bushfire-Inquiry-1630/Final-Report-of-the-NSW-Bushfire-Inquiry.pdf>

<sup>2</sup> See NSW Department of Planning, Industry and Environment, *Understanding the effects of the 2019–20 fires*, available at <https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/fire/park-recovery-and-rehabilitation/recovering-from-2019-20-fires/understanding-the-impact-of-the-2019-20-fires>

<sup>3</sup> Bushfire Recovery Victoria, *Eastern Victorian Fires 2019–20 State Recovery Plan*, August 2020, available at [https://www.vic.gov.au/sites/default/files/2021-04/BRV\\_Statewide%20Recovery%20Plan.pdf](https://www.vic.gov.au/sites/default/files/2021-04/BRV_Statewide%20Recovery%20Plan.pdf)

<sup>4</sup> Department of Environment, Land, Water and Planning, *Victoria's bushfire emergency: biodiversity response and recovery - Version 2*, August 2020, available at [https://www.wildlife.vic.gov.au/\\_data/assets/pdf\\_file/0030/484743/Victorias-bushfire-emergency-Biodiversity-response-and-recovery-Version-2-1.pdf](https://www.wildlife.vic.gov.au/_data/assets/pdf_file/0030/484743/Victorias-bushfire-emergency-Biodiversity-response-and-recovery-Version-2-1.pdf)

<sup>5</sup> Queensland Government, *2019 Queensland Bushfires - State Recovery Plan 2019-2022*, August 2020, available at <https://www.qra.qld.gov.au/2019-queensland-bushfires>

<sup>6</sup> The Queensland Government's *State Recovery Plan 2019-2022* indicates that "further fine scale analysis of fire extent, severity and field surveys are needed to confirm distribution and level of impact for priority species and locations, see Queensland Government, *2019 Queensland Bushfires - State Recovery Plan 2019-2022*, August 2020, available at <https://www.qra.qld.gov.au/2019-queensland-bushfires>

<sup>7</sup> Professor Chris Dickman, Faculty of Science, University of Sydney. For an explanation of Professor Dickman's estimates see <https://www.sydney.edu.au/news-opinion/news/2020/01/08/australian-bushfires-more-than-one-billion-animals-impacted.html>



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<sup>8</sup> WWF-Australia, *Impacts of the Unprecedented 2019-20 Bushfires On Australian Animals*, November 2020, available at [https://www.wwf.org.au/ArticleDocuments/353/WWF\\_Impacts-of-the-unprecedented-2019-2020-bushfires-on-Australian-animals.pdf.aspx](https://www.wwf.org.au/ArticleDocuments/353/WWF_Impacts-of-the-unprecedented-2019-2020-bushfires-on-Australian-animals.pdf.aspx)

<sup>9</sup> Smith, Dr A. *Review of CFIWA Mitigation Conditions for Timber Harvesting in Burnt Landscapes - A Report to the NSW Environment Protection Authority*, September 2020, available at <https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/forestry/review-of-cifoa-mitigation-conditions-for-timber-harvesting-in-burnt-landscapes.pdf?la=en&hash=6360E080DB80E7BEF935A1A4A6BDDAB46BBFD0A7>

<sup>10</sup> For further information, please refer to the relevant environment department in each jurisdiction. Information is also available in EDO Fact Sheets: <https://www.edo.org.au/factsheets-resources/>

<sup>11</sup> See further <https://www.environment.gov.au/biodiversity/threatened/cam>

<sup>12</sup> See <https://www.environment.gov.au/biodiversity/threatened/publications/mou-cam>

<sup>13</sup> *Intergovernmental Memorandum of Understanding Agreement on a Common Assessment Method for Listing of Threatened Species and Threatened Ecological Communities*, Schedule 1 - Common Assessment Method – Item 2.2

<sup>14</sup> See <https://www.environment.gov.au/biodiversity/bushfire-recovery/priority-animals>

<sup>15</sup> See <https://www.environment.gov.au/biodiversity/bushfire-recovery/bushfire-impacts/expert-panel>

<sup>16</sup> See <https://minister.awe.gov.au/ley/media-releases/new-threatened-species-listing-process-meet-bushfire-impacts>

<sup>17</sup> See <https://minister.awe.gov.au/ley/media-releases/new-threatened-species-listing-process-meet-bushfire-impacts>

<sup>18</sup> See <https://www.environment.gov.au/biodiversity/threatened/species>

<sup>19</sup> See [https://www.edo.org.au/wp-content/uploads/2020/06/Cth\\_threatened\\_species\\_law.pdf](https://www.edo.org.au/wp-content/uploads/2020/06/Cth_threatened_species_law.pdf)

<sup>20</sup> See <https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Parks-reserves-and-protected-areas/Fire/nsw-wildlife-and-conservation-bushfire-recovery-medium-term-response-plan-200478.pdf>; see also the *Wildlife and Conservation Bushfire Recovery: Immediate Response*, published in January 2020 and *Fire and the Environment 2019–20 Summary*, published in May 2020, available at <https://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/fire/park-recovery-and-rehabilitation/recovering-from-2019-20-fires/understanding-the-impact-of-the-2019-20-fires>

<sup>21</sup> See <https://www.environment.nsw.gov.au/topics/animals-and-plants/threatened-species/nsw-threatened-species-scientific-committee/nomination-assessment-public-exhibition-and-listing>

<sup>22</sup> See [https://www.edo.org.au/wp-content/uploads/2020/06/180621\\_Protecting\\_Native\\_Animals\\_Plants\\_threatened\\_species\\_and\\_ecological\\_communities.pdf](https://www.edo.org.au/wp-content/uploads/2020/06/180621_Protecting_Native_Animals_Plants_threatened_species_and_ecological_communities.pdf)

<sup>23</sup> Queensland Government, *2019 Queensland Bushfires - State Recovery Plan 2019-2022*, August 2020, available at <https://www.qra.qld.gov.au/2019-queensland-bushfires>

<sup>24</sup> See <https://environment.des.qld.gov.au/wildlife/threatened-species/reclassification-process/species-technical-committee>

<sup>25</sup> See <https://environment.des.qld.gov.au/wildlife/threatened-species/reclassification-process>

<sup>26</sup> See <https://www.wildlife.vic.gov.au/home/biodiversity-bushfire-response-and-recovery>

<sup>27</sup> Victoria Department of Environment, Land, Water and Planning, *Victoria's bushfire emergency: biodiversity response and recovery - Version 2*, August 2020, available at [https://www.wildlife.vic.gov.au/\\_data/assets/pdf\\_file/0030/484743/Victorias-bushfire-emergency-Biodiversity-response-and-recovery-Version-2-1.pdf](https://www.wildlife.vic.gov.au/_data/assets/pdf_file/0030/484743/Victorias-bushfire-emergency-Biodiversity-response-and-recovery-Version-2-1.pdf)

<sup>28</sup> See <https://www.environment.vic.gov.au/conserving-threatened-species/conservation-status-assessment-project>, including “How have the 2019-2020 bushfires affected the project?”

<sup>29</sup> See <https://www.environment.vic.gov.au/conserving-threatened-species/conservation-status-assessment-project>

<sup>30</sup> See <https://www.environment.vic.gov.au/conserving-threatened-species/victorias-framework-for-conserving-threatened-species>