Submission on *Nature Conservation Bill* 2013 (Exposure Draft)

In my submission on the review of the Act I raised the question whether ‘extinct’, a crucial concept in the Act, meant ‘extinct in the ACT’ or extinct (as, for example, a species) generally.

The Act appeared to me to have been administered as if ‘extinct’ meant either ‘extinct in the ACT’ or ‘extinct in a relevant biogeographical area that included the ACT’. In my view the former interpretation has weak support in the Act and the latter interpretation has no basis at all in the Act.

The Bill makes it much clearer that ‘extinct’ means extinct generally. For example s56 says that a species may be declared extinct ‘if there is no reasonable doubt that the last member of the species has died’. To read this as meaning that the last member of a species in the ACT has died leads to a nonsensical result. ‘Extinct’ species, perhaps thriving elsewhere, would be capable of reappearing in the ACT every few years.

See also the reference to ‘anywhere in its past range’ in s56(2) of the Bill, as distinct from ‘in the ACT’ in s56(7).

If it is desired to direct action under the legislation to only an ACT or or regional population, this could and should be achieved by declaring a relevant population under s13(1)(b) of the Bill.

Notwithstanding that implied (and sensible) interpretation I think it would be desirable to include a definition of extinct that makes it explicit that the Act is to be administered on the footing that ‘extinct’ means extinct generally. The reason is that otherwise the assumption might continue that the concept of ‘extinct’ is to be treated as if it refers to some kind of local or regional extinction, however curious the results that follow from that.

I note in this connection that the transitional provisions in Chapter 20 provide for the carrying-over of listings that will have been made on a local extinction basis rather than the general extinction basis confirmed by the Bill.

If I am wrong in my view of ‘extinction’ there will be an even greater need to clarify in the Bill just what concept of extinction is contained in it.