



The South Australian Ornithological Association Incorporated trading as Birds SA

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Biodiversity Coordination Unit

Department for Environment and Water
GPO BOX 1047
Adelaide SA 5001

Re: Birds SA Submission on draft Biodiversity bill

Birds SA strongly supports the creation of a modern and effective Biodiversity Act.

Birds SA supports the draft bill but believes it should be strengthened to better reflect the objects of the Act.

The bill should:

- include appropriate safeguard mechanisms to prevent inappropriate development that would have an egregious negative impact on biodiversity, such as through an early “no” to clearly unacceptable proposals. Too many projects can proceed to an advanced stage before finalizing their environmental assessments and reviews.
- require the Minister to make key decisions within specific timeframes, such as the listing of species as threatened with extinction and identifying their critical habitat. The current draft of the Bill allows for too much discretion, so key decisions could be avoided or delayed.
- be accompanied by a commitment to appropriate sufficient funds from the Budget to fund both its implementation, including its administration and funds for the large-scale ecological restoration that will be required to build the resilience of our biodiversity into the future, particularly given the impacts of climate change.
- establish a dedicated fund for biodiversity restoration grants as a clause under **Section 36** as part (a) and read: *(a) an appropriation of \$10 million per annum (increased annually by CPI) to form the basis of a Biodiversity Restoration Grants Scheme, administered by the Council to further the Objects of this Act.*
- adopt the existing NVC practice when appointing members to the Biodiversity Council and the NPCAC.
- require the Minister, in consultation with the Biodiversity Council, to prepare a recovery statement outlining immediate actions which the government will take to drive the recovery of any threatened species within 3 months of any new listing, and a comprehensive Recovery Plan within 2 years.

- require the Minister, in consultation with the Biodiversity Council, to prepare recovery statements for all currently listed threatened species within 2 years, and comprehensive Recovery Plans for all currently listed threatened species within 3 years of listing.
- require that for every species that is listed as Endangered, a public notice must be issued about the reasons for the listing and measures proposed to recover the species, and the results and subsequent actions published within 12 months.
- further clarify the definition of native vegetation as it is currently very confusing and thus difficult to determine when approvals are required.
- further clarify when approvals are required in relation to regulated activities involving animals.
- require that regulations or a biodiversity policy must be developed to specify—
 - (a) activities that will, or will not, be taken to harm biodiversity; and
 - (b) matters to be taken into account in determining what measures are required to be taken under this section; and
 - (c) measures that will, or will not, be taken to constitute reasonable measures for the purposes of compliance with the duty.
- require the “no development” orders to be the default for any unlawfully cleared land, with any subsequent revocation of the order to be published with the reasons clearly explained.
- ensure that in respect of a biodiversity development application, companies are incentivised to produce accurate and honest submissions. Therefore, Directors of the submitting companies should be held to the same standards as required by the Corporations Act 2001 - s1041H & Australian Consumer Law - s18. Directors to be held personally liable if they allow the company to engage in Misleading or deceptive conduct in respect of biodiversity development applications (or amend the PDI Act if necessary).
- require the development and annual updating of sentencing and penalty / fine guidelines for all offences under the Act for use by the ERD Court.
- expand provisional listing to include those species under consideration i.e. formally nominated using the Common Assessment Form and considered ‘not rejected’. And further, recognize that organisations or individuals that undertake a nomination have already put substantial effort in preparing information, so if the species/veg community/entity is not rejected at the start, it should be placed on a provisional/interim list for two years until such time that it has been formally assessed. This is most relevant to the nominations currently with the TS Unit of DEW waiting for the next review of the NPW Act schedules. Data relating to these nominations also needs to be visible in the ‘early zoning stage’ of developments.

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