Biodiversity Coordination Unit
Department of Environment and Water
biodiversityact@sa.gov.au

From: Tony Robinson Retired former SANPWS Ecologist

I would like to offer the following comments on Possible items to be considered for inclusion in the proposed new Biodiversity Act

I am a retired SANPWS Ecological Scientist with 35 years professional experience working on biodiversity-related issues, mainly in South Australia, and in Victoria during my PhD research. I spent the latter part of my SANPWS career as Manager, Biological Survey and Research and was responsible for the Biological Survey of South Australia. I have worked on numerous environmental projects in fields as diverse as Conservation Reserve Management Planning, Creation of a Comprehensive, Adequate and Representative Reserve System (CARRS) for both South Australia and Australia, threatened species monitoring and assessment, The Bioregionalisation of Australia and numerous environmental policy developments. I have authored many papers in refereed scientific journals. I owned for 23 years, until 2023, a 200 ha Heritage Agreement property on Kangaroo Island which continues to be managed, by its new owners, for conservation as it slowly recovers from the Black Summer fire.

I welcome the opportunity to comment on the development of a new Biodiversity Act and I fully support this attempt to reverse the long-term decline in biodiversity across the State. I realise however, that to achieve this will need a radical change in approach at the highest levels of government and industry so that environmental values are no longer subservient to 'development' imperatives.

You should note that I have based my submission on a submission already submitted to you by Colin Wilson. He and I have similar backgrounds having spent our working lives in Conservation Science and continuing since retirement, in having a strong commitment to getting more effective nature conservation in South Australia, In some cases I have left Colin's submission unchanged as we share the same opinion. In other cases I have added extra comments from my own experience. I hope our collective submissions will be taken seriously as we bring considerable experience in this area of Government to the table.

A New Biodiversity Act

- The broad goals for the proposed new Biodiversity Act are appropriate and supported, but to be effective the conditions outlined below need to be embraced.
- The Act must not allow 'Ministerial discretion' in decision making. Disputes that arise in relation to particular development proposals should be initially resolved by proper enforcement of the new Acts principals and only as a last resort be taken through the Courts. We must ensure that we do not waste precious conservation resources battling court cases with Developers with deep pockets and political influence.
- The following of independent, authoritative, scientific advice is paramount. The conservation of biodiversity is unlike any other legal responsibility of Government, once biodiversity is lost can never be regained. Scientific knowledge and the precautionary principal must take

precedence over short term economic or political expediency. Not all threatened species and ecosystem types are seen as equal and valuable, but all deserve equal protection.

- A new Biodiversity Act must be strong enough to over-ride legislation governing other activities that may cause damage to biodiversity such as mining, tourist developments, forestry, land-use planning etc.
- Although the current National Parks and Wildlife Act allows more individual species to be assessed and added to existing threatened species lists, the process is The new Act should provide strong scientific support and a much more formal process of regular assessment of any proposed additions. In spite of the significant contribution of the former Biological Survey of South Australia and numerous research projects on threatened species (mostly vascular plants and vertebrates) this data is now 20-30 years old and much decline has occurred in the biodiversity over this period and is still continuing. The new Act must provide for a significant increase in scientific staff in NPWS to selectively target particular species and ecosystems to update the current State Biodiversity Databases.
- Rectifying this knowledge gap requires significant additional long-term funding, and the establishment of a dedicated agency or unit.
- Hand in hand with the scientific acquisition of updated information on the current status of species and ecosystems must be a significant increase in staff and funding for biological data management within the NPWS. This does not just mean more 'IT support" it actually requires experienced ecologists with a knowledge of the States Flora and Fauna to ensure that these complex databases are kept and modified in a scientifically acceptable fashion.
- The recently publicised trashing of the Scientific staff at the South Australian Museum is extremely concerning. Museums and Herbariums form the fundamental taxonomic underpinning of all conservation biology decisions and without their continuing support and research a new Biodiversity Act will become increasingly irrelevant. Museums are not just places that provide 'displays for the Public' as the current proposal for the SA Museum would have us believe. They are the custodians and researchers on the biological collections that underpin proper conservation science in this State as the have been for over 150 years.

Topic 1 – Biodiversity and South Australia's First Nations people

- I strongly support working in partnership with Aboriginal people and much pioneering work in this regard was carried out as part of the Biological Survey of South Australia. It is not a simple process and should never be treated as such. If it is to work effectively it must be properly funded and not just a 'politically correct thing to say'. It also needs to recognise the fundamental role that the Commonwealth Government has in funding Aboriginal issues across Australia

Topic 2 – Avoiding impacts

- The concept of 'multiple land use' can be a bit of a poison chalice for Biodiversity Conservation, but it is a very necessary component in a State like South Australia with its terrible record of natural vegetation over-clearance. Many ecosystems, particularly in the agricultural regions of the State, are experiencing ongoing biodiversity decline and will need serious remediation of significant areas that were cleared in the past. This 're-wilding' will be extremely costly and there are no examples of how it can be successfully undertaken for many of our ecosystems. This means that while the biodiversity values of all patches of remnant native habitat are not necessarily equal, all patches are of significance compared with the surrounding exploitative land uses. There are of course still many areas of habitat

with high value biodiversity, and these should be urgently identified by fully-funded independent scientific assessment. Avoidance of any damage to high biodiversity value land must be absolute and non-negotiable. All other land, including multiple land use areas should require 'minimisation' of biodiversity impacts.

- Rehabilitation and restoration should be mandated actions after cessation of any existing commercial, private or government activities or developments that have resulted in damage to biodiversity.
- Offsets do not work and are open to abuse as has been demonstrated in numerous scientific studies. Their use should be discouraged and, where unavoidable, should be subject to intense scrutiny and evaluation.
- Special consideration needs to be given to avoiding impacts in areas recovering from natural disasters such as floods, droughts or bushfires.
- Consideration needs to be given to the cumulative 'death by a thousand cuts', whereby numerous 'minimisations' of impacts leads to major impact on biodiversity.

Topic 3 – Transparent decision-making

- Assessment of potential biodiversity impacts must be taken out of the hands of developers. At present, developers are required to self-report any adverse impacts and usually employ consultants to do the assessments for them. Although Environmental impact assessment should be funded by developers it needs to be done at arm's length. Environmental impact assessors should not feel pressured to provide developers with favourable assessments to attract future work. Assessors need to be appointed independently and report directly to government, unmediated by the developers.
- The regulations under the Act need to be clear and unambiguous so that no developers are under any illusions about what is acceptable and what isn't. In this way proposed developments can align with the provisions of the Act from the beginning, thus reducing potential for costly and time-wasting protest and litigation.
- 'Major Project Status' must be removed from consideration as a means of allowing biodiversity-destroying developments to proceed. Major projects are ephemeral while biodiversity lost is gone forever.

Topic 4 – Threats to biodiversity

- There are many threats to biodiversity and I have never been completely convinced that the identification and funding of 'threatening processes' as under the EPBC Act, is a good way to deal with the complexity of the threats to biodiversity. It may be most effective to legislate just a few critical threats that everyone can agree about and then deal with the complexity of all the other threats in detail in species and ecosystem recovery plans.
- The Act should include a 'climate trigger' to prevent approval of projects that contribute to climate change. If anthropogenic climate change is not arrested, then virtually everything else in the new Act is pointless.

Topic 5 – Assessing the risk of extinction

- The intrinsic value of all taxa needs to be acknowledged up front. Every living species is the result of 4 billion years of unbroken evolution, and not one should be seen as more or less expendable than any other, regardless of popular appeal.

- It is essential that resources be given to continuous biodiversity assessment, and updates to lists of at-risk species and ecosystems must be mandated and regular. If we don't know what we have or what is in peril, then everything else under the new Act would be meaningless.
- I agree that an independent expert scientific biodiversity advisory panel should be established and funded. This panel must be supported by an adequately funded group of NPWS ecologists to carry out the research necessary to provide reliable scientific data to the panel for decision. Protocols for timely data sharing across jurisdictions must also be implemented.
- The globally accepted IUCN Red-List criteria are the most appropriate means of identifying threatened species. It is important to consider the status of sub-species and genetically distinct populations.
- It is essential that an obligation to monitor, report on and especially implement actions for listed species be included in the new Act. Without mandated and fully funded action we are just monitoring and reporting on our biodiversity fading away.
- Fungi and invertebrates currently have almost no protection, despite collectively making up the overwhelming majority of all biodiversity. They are also the least known species. Marine and freshwater life is also insufficiently protected. See comments above on the role of Museums and Herbaria in contributing to our understanding of these lesser-known groups.

Topic 6 – Biodiversity planning and reporting

- While planning and reporting are essential, the Act should also mandate action to arrest and reverse the decline in biodiversity. Long-term funding is needed to assess the condition of both species and ecosystems, to identify and remove threats, and evaluate success.

Topic 7 – The benefits of information

- There are numerous databases across Australia held by State and federal government departments, NGOs, universities and other organisations, containing vast quantities of biological data. It is essential that protocols are established for this data be collected, stored and shared in a timely and consistent manner. Such information must be freely available to the community.
- Funding must be provided to maintain long-term standardised monitoring programmes for both species and ecosystems to detect changes and identify threats. It was planned during my time running the Biological Survey of South Australia that this would evolve into a scientific group to carry out biological monitoring building on data at the thousands of well documented sample sites from the original survey. This could still be done as the basis for such a long-term biological monitoring initiative under this new Act.
- "Providing certainty about where biodiversity impacts can't occur" is perhaps the most important role of a new Biodiversity Act. We can't allow massive corporations to litigate, buy and bully their way around environmental constraints as happens now. There must be unambiguous lines that cannot be crossed no matter how much money or influence is involved.

Topic 8 – Achieving 30 by 30

- Since the late 1980's the SA Government has had a concept called 'Nature Links' which envisages linking the existing conservation reserve system with re-vegetation corridors across private land. Doing this is a efficient and systematic way across selected areas of the agricultural region has proven to be too 'politically difficult'. The new Act provides an

opportunity to develop a re-vegetation subsidy system to begin this systematic linking process. This will be an essential component of the necessary re-wilding that will have to happen if South Australia is to have any hope of reaching the 30 by 30 target

- There is ample evidence that placing areas of re-vegetation of local plant species on farm land improves the productivity of those farms that have committed to re-vegetation programmes. A systematically designed Naturelinks programme added to the new Biodiversity Act should not therefore be as politically unacceptable as it once was.
- It is not enough to just have an intention or goal to preserve or restore habitat, it needs to be partnered with well-defined and measurable goals and sufficient funding to fully implement, including on private land.

Topic 9 – Biodiversity – a shared responsibility

- "For a duty of care to be effective it must be linked to some type of enforcement action…Voluntary standards and codes of practice would be a practical means of fulfilling the duty." When have voluntary codes of practice ever stopped any powerful individuals or companies from doing whatever they please?
- A carrot and stick approach may be an effective long-term strategy for protecting biodiversity. Enforcement of wrongdoing is essential and penalties must be severe enough to provide a significant disincentive, but positive incentives could also be used, such as promoting official labelling for products created with no adverse biodiversity impacts.
- Much greater long-term support is needed for private landholders to protect and restore native habitat (see Nature Links comments above).
- The importance of biodiversity conservation needs to be embedded in the school curriculum and featured prominently in agricultural and community extension materials. The level of change needed in community attitudes requires long-term investment and resolve.

Topic 10 – Consequences of doing the wrong thing

- Now we come to the nitty-gritty! Penalties for damaging biodiversity must be sufficient that wealthy individuals and corporations can't just factor it in to their cost of doing business as usual. Why should destroying biodiversity, a crime against all future generations forever, be seen as less a crime than, for instance, robbing a bank or housebreaking? Wilful destruction of biodiversity should be seen as a major criminal act, given its generational consequences, attracting significant criminal penalties.
- It is essential that the new Act allow third parties to bring proceedings in the public interest, but the playing field needs to be levelled in relation to costs. Huge multinational corporations can't be allowed to act with impunity because nobody can afford to take them on, or because individuals, communities or NGOs don't have 'legal standing'. Australian history is littered with environmentally concerned individuals losing houses, jobs and bank balances in one-sided fights against environmentally destructive developments.
- An investigation/enforcement unit needs to be established, well-funded and invested with significant police powers.
- The Act needs to apply across all lands regardless of tenure, including those managed by local and State government.

Thank you for the opportunity to comment on this Discussion Paper, and for committing to a new approach to biodiversity conservation. We need to get this right so that future generations don't face an impoverished natural world. I look forward to being able to comment on the draft legislation.

Yours sincerely

Tony Robinson