01 March 2024

Biodiversity Coordination Unit
Department for Environment and Water
81-95 Waymouth Street
ADELAIDE SA 5000
By email: biodiversityact@sa.gov.au

Dear Biodiversity Coordination Unit,

RE: Submission on Developing a Biodiversity Act for South Australia

Nature Foundation is an apolitical not-for-profit that invests in conserving, restoring and protecting Australian landscapes, flora and fauna to ensure their survival. We have demonstrated leadership in sustainable nature conservation that delivers long-term benefits for biodiversity. We do this by working with others on areas of exceptional biodiversity, threatened species and sites of natural, cultural and geological significance.

Our vision is to inspire people to connect with and conserve the natural habitat of South Australia for future generations because we see people and nature being fundamentally dependent on each other.

The Nature Foundation welcomes the opportunity to provide feedback on the development of a South Australian Biodiversity Act. It strongly supports the development of a new Biodiversity Act for South Australia and agrees with the broad rationale for developing the new Biodiversity Act, as outlined in the discussion paper.

However, we reiterate the significance and severity of the challenges we face globally and in South Australia. We face a biodiversity crisis, as recently reported in the EPA's recent State of the Environment Report 2023- *"Unless urgent measures are taken, the climate emergency and biodiversity losses will become crises for the environment and our communities",* and urge the Malinauskas Government to be resolute and ambitious in protecting and repairing nature.

Firstly, the Nature Foundation strongly supports the Act by providing a mechanism for increasing First Nations people's capacity to engage in decision-making about biodiversity. This should include stronger engagement at all levels of biodiversity program management, including development, planning, and delivery, and it should acknowledge cultural rights and knowledge in achieving a '*Healthy Country*'.

The State Prosperity Project, recently announced by Premier Malinauskas, outlines a once-in-a-generation opportunity to transform the economic prosperity of the state underpinned by renewable energy generation. We strongly support this ambitious plan to assist the South Australian community transition toward net zero and future-proofing the state economy.

More broadly, the State Prosperity Project provides an economic framework from which to develop the Biodiversity Act into a transformational piece of legislation that puts the rights of nature and future generations first and recognises that nature is fundamental to our state's future prosperity. The Act should position South Australia as a nature-positive jurisdiction that recognises and values biodiversity as an essential component of broader economic development and moves to capitalise upon the emerging global competitive advantage this can provide. There are various structural ways to achieve this, such as commercial nature-positive agreements, nature-positive incentive arrangements, and more formal statutory environmental mechanisms. The government should consider how these mechanisms can be incorporated into the Act as a fundamental pillar of economic development and assist SA companies in better engaging in the emerging nature repair market.

The Objects of the Act are critical to its success. Appropriate definitions of biodiversity, ecosystems and ecosystem function are paramount. The goals of the Act, as outlined in the discussion paper, are appropriate. The mechanisms that facilitate the protection of existing biodiversity (No Loss) and its future recovery (Nature Positive) are critical. The discussion paper refers to the principles of ecologically sustainable development (ESD), which is supported, but the Act should define principles that result in nature positive outcomes clearly.

The precautionary principle should be embedded in the Act. The principle of inter-generational and intra-generational equity can only be achieved with transformational investment in biodiversity recovery. Finally, the internalisation of externalities is fundamental, and current cost structures associated with approvals for development need to be revised to achieve biodiversity recovery.

The Act should also be able to demonstrate in years to come, through good science and monitoring, real improvement in the trajectory of biodiversity, including threatened species, ecosystem services and the extent and condition of habitat. It should also ensure that the legislation incorporates a strong plan for biodiversity rescue that includes landscape-scale biodiversity planning derived from various existing data sources. . This could be underpinned by adopting a set of nature-based accounts and including indices like the Threatened Species Index (TSX) that contribute to transparent decision-making.

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The Act will need to consider offsetting and an appropriate mitigation hierarchy to avoid damage. It should seek to legislate mechanisms that result in nature-positive outcomes via a nature-positive multiplier, either through a combination of mandatory or voluntary initiatives. Initiatives may provide businesses with additional formal recognition that can be used in ESG reporting or other incentives, e.g. discounted access to renewable energy. This could drive further investment into biodiversity initiatives like stewardship and the emerging Nature Repair market.

The Act could be further strengthened by aligning legislation with international and national standards and best practices, for example, the Convention on Biological Diversity's (CBD) Kunming-Montreal Global Biodiversity Framework adopted at COP 15, The Taskforce for Nature-Related Disclosures (TNFD), and relevant national initiatives, for example, Nature Repair, Nature Positive Plan and the National Biodiversity Strategy and Action Plan.

The primacy of this Act over others is unclear. It should strengthen existing environmental legislation, particularly the Native Vegetation Act 1991, and provide clear guidance to state government departments' decision-making with regard to biodiversity.

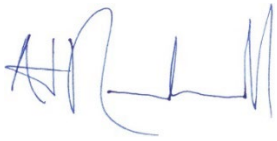
Threats to biodiversity should be clearly defined as outlined in topic 4 and provide a framework for responsive, adaptive management. Assessing the risk of extinction is critical to effective planning and management. The Act should provide for this as outlined in Topic 5. The schedule of listed South Australian species should be removed from the National Parks and Wildlife Act and given prominence as outlined in the discussion paper. This also needs to be appropriately resourced and is critical to planning, reporting and transparent decision-making.

Nature Foundation supports ALCA's suggestion regarding the appropriate implementation of '*The private land conservation opportunity to deliver for 30 by 30',* including enhanced conservation covenants that provide for high-integrity management and restoration activities and give confidence to markets seeking to invest in nature-positive initiatives.

Finally, introducing general duty of care obligations is important. While new developments like mining, construction and renewable energy projects do pose a threat to biodiversity in some instances, they do not represent the majority of land use that collectively influences the quality and condition of biodiversity in South Australia. The ongoing decline in the condition and extent of habitat across the landscape is ultimately responsible for the biodiversity crisis that we face[1].

If you would like to clarify or discuss this submission, please contact me on [redacted] or via email [redacted]

Yours sincerely,



Alex Nankivell
Chief Executive Officer

[1] Maxwell, Sean L., Richard A. Fuller, Thomas M. Brooks, and James EM Watson. 'Biodiversity: The Ravages of Guns, Nets and Bulldozers'. *Nature News* 536, no. 7615 (2016): 143.