Developing a Biodiversity Act for South Australia

Discussion paper





Government of South Australia
Department for Environment and Water

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Acknowledgement of Country

The South Australian Government acknowledges Aboriginal people as the First Peoples and Nations of the lands and waters we live and work upon and we pay our respects to their Elders past, present, and emerging. We acknowledge and respect the deep spiritual connection and the relationship that Aboriginal and Torres Strait Islander people have to Country.

First Nations peoples is used throughout this document in reference to Aboriginal and Torres Strait Islander peoples as the sovereign people of this land. It recognises various language groups as separate and unique sovereign nations. The Department for Environment and Water (DEW) respectfully acknowledges this term is not universally used by all First Nations peoples in South Australia.

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Message from the Minister



Our state's biodiversity is our life support system. It purifies our water, pollinates our crops, regulates our weather, and provides us with the resources which underpin our daily lives. Our biodiversity also adds beauty and wonder to our lives – from our incredible coastline, ranges, rivers and outback to the native animals and plants they sustain.

However, our relationship with nature, both here in South Australia and on a global scale, is at a critical crossroad. We are facing two clear threats to the planet and consequently, our way of life: climate change and biodiversity decline. While both are independent challenges to our collective future, they each exacerbate the effect of the other. In the face of climate change we have a global obligation to reduce emissions, capture and store carbon, shift the base of our economy and prepare for further warming.

In responding to biodiversity decline, we have a very particular responsibility to the nature in our state under our jurisdiction.

The South Australian Government is urgently addressing the climate emergency through our commitment to transforming the economy to net zero emissions and becoming a leader in renewable energy production. However, we still have work to do in arresting biodiversity decline.

We can build upon our existing reputation and green credentials by demonstrating best practice biodiversity management to the world. Overarching legislation to secure nature and biodiversity, now and into the future, will position us well to achieve this. Being a leader in biodiversity management unlocks a suite of opportunities that can ensure the future prosperity of our state.

Our current laws do not reflect the modern and significant challenge of biodiversity loss, particularly in a changing climate. That's why we've committed to developing the state's first Biodiversity Act to help to conserve and restore ecosystems, better protect endangered species, populations, ecological communities and critical habitats and prioritise the protection of biodiversity.

This is a shift in our approach, and it means changing how we see ourselves in relation to nature. In many ways, it is about realising that we're not separate from the natural world; we are a part of it.

First Nations peoples have been managing Country and living harmoniously on South Australia's lands and waters for more than 65,000 years. Their wisdom and perspectives can provide a meaningful contribution to address the biodiversity crisis, and we seek to recognise and acknowledge their respect for Country in the legislation.

In this discussion paper, we outline the key issues related to protecting our biodiversity and we invite you to share your views on how biodiversity affects our wellbeing, the challenges we face, and the solutions that are within our reach.

Thank you for taking the time to engage in this crucial topic for the future of our state.



The Hon Susan Close, Deputy Premier
Minister for Climate, Environment and Water
Minister for Industry, Innovation and Science
Minister for Defence and Space Industries


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Introduction

Biodiversity refers to the variety of life on Earth, encompassing all plants, animals, ecosystems and the genetic variety found in them. It includes the variety within species, between species, and among ecosystems.

Biodiversity is essential for the functioning of our planet's ecosystems, human wellbeing, economic prosperity, and cultural diversity. Many also believe that each species has value and a right to exist, regardless of its direct benefit to humans and that we have an ethical responsibility to support this inherent right. Ultimately, our individual, social and economic wellbeing are all underpinned by healthy biodiversity.

First Nations peoples have been connected to their Country and cared for Australia's biodiversity for over 65,000 years. First Nations' land management practices have shaped Australia's ecological communities and sustained biodiversity. They have deep connections with and intricate knowledge of their lands and waters and hold knowledge about biodiversity from long-term observations and management, generational presence, and oral history. First Nations peoples' cultural practices and protocols are enduring and come from Country. The continuation, preservation and promotion of these protocols and practices have ongoing importance to First Nations' peoples today.

The biodiversity crisis

Across the globe, biodiversity is in crisis. Research estimates that at least 1 million species, or 1 in 8, are now threatened with extinction. Changes to ecosystems and the extinction of species have been more rapid in the past 50 years than at any time in history.

The ongoing and accelerating decline of biodiversity has significant implications for the health and wellbeing of our planet, our economy and our own future. Taking steps today to stop the decline of our remarkable plants, animals and ecosystems has never been more important.

Australia's biodiversity is unique. It is recognised as one of the 17 'megadiverse' countries, holding 10% of the world's biodiversity, including more than half a million plant and animal species – many found nowhere else. Despite this, Australia has a poor environmental record. It has one of the highest species extinction rates in the modern world[1], and is ranked as the second worst among the 7 countries responsible for 60% of the world's biodiversity loss between 1996 and 2008.[2]

South Australia's biodiversity

It is estimated that South Australia is home to more than 7,500 marine species (invertebrates, fish, mammals, algae and seagrass)[3]; and more than 12,500 terrestrial species (vascular plants, mammals, birds, reptiles, amphibians, bryophytes, fungi and lichen)[4]. Many of these species are unique and found nowhere else on Earth .

But of these, there are currently over 1,100 species listed as threatened in South Australia, and many more are likely threatened but have not yet been assessed. Unenviably, South Australia has one of the highest extinction rates in Australia.

In addition to the human biological needs for a healthy environment, greater biodiversity and healthy functioning ecosystems are a foundation of the strength and resilience of South Australia's economy and indeed our future.



Biodiversity underpins a strong economy

The South Australian Economic Statement[5] outlines a vision for a smart, sustainable and inclusive economy that's fit for the future, improving the wellbeing of all South Australians. Healthy ecosystems and biodiversity are identified as fundamental areas which we need to get right to achieve this vision.

Beyond the sectors that are directly supported by biodiversity, an emerging economic opportunity for the state is to capitalise on the green transition occurring across the world. This in part will be achieved by leveraging South Australia's significant potential in renewable energy and the subsequent impacts for other sectors, including green iron and green critical minerals.

As part of this transition, a key aspect will be South Australia's credentials in the environmental, social and governance domains and how our performance, including our action on biodiversity, supports these credentials. It is crucial that we are viewed as a trusted, reliable partner by international investors, industry and the Australian Government, and that our sustainability credentials can be verified.

While South Australia has previously been a leader in preventing large scale clearance of native vegetation and in building terrestrial and marine protected areas, our biodiversity has continued to decline and we need to take action to maintain our reputation as a green leader and ensure our native species and natural places are sustained into the future. Not only will taking action through a new Biodiversity Act benefit our biodiversity it will improve our resilience, mitigate climate change impacts and underpin our economy through a time of change and transition.



A new Biodiversity Act

Introducing new biodiversity legislation for South Australia forms one of the state government's commitments under its Plan for Biodiversity Protection and Growing Nature initiative.

A new Biodiversity Act will be a tool to give appropriate weight to nature and its role in ensuring the long term future of South Australia. The act is intended to support business and the state transition to a more sustainable, productive and healthy future. A new Biodiversity Act could be seen as the state's key piece of environmental legislation with strong influence over actions taken within the state that are likely to have impact on matters involving biodiversity.

The design of a new Biodiversity Act provides the opportunity to address current and future challenges facing biodiversity especially in the context of a rapidly changing climate. It will also enable recognition of the fundamental contribution biodiversity makes to the fabric of all life on Earth and provide a framework for conservation and recovery efforts.

The benefits

Benefits of a dedicated Biodiversity Act include:

- a sense of shared responsibility in looking after our biodiversity
- improved conservation and protection of biodiversity
- stronger partnerships with First Nations peoples in biodiversity conservation
- consistency and transparency in our approach to biodiversity conservation
- clearer provisions relating to identifying and protecting at risk species
- improved alignment with national legislation and international obligations
- support for a smart, sustainable and inclusive economy.

We want your input

Consultation is an important step in the development of a new Biodiversity Act for South Australia.

This paper provides a high-level overview about the need for change and identifies areas where there are opportunities for reform. The feedback you provide will help us to understand community and stakeholder expectations about biodiversity, including what is working well and what needs to change.

We are asking you to consider the identified opportunities and indicate the extent of your support for their implementation by completing the online survey via YourSAy.

Goals for a Biodiversity Act



To **conserve** biodiversity and maintain the diversity, quality and function of ecosystems.

To enhance capacity to **adapt** in the context of a changing climate.

To **protect** threatened and culturally important species and ecological communities.

To **recover** threatened species and ecological communities so their conservation status improves.

To be effective, new biodiversity legislation must recognise the value of biodiversity as a whole, promote a sense of shared responsibility in its ongoing protection, provide for its restoration and create accountability. Opportunities for achieving this are contained in the remainder of this discussion paper.

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

Increasing involvement of First Nations South Australians in biodiversity matters and respecting their perspectives

There are over 30 Aboriginal First Nations in South Australia that have lived on these lands for thousands of generations, each having distinct beliefs, cultural practices and languages. These cultural protocols and practices have shaped our landscape and its biodiversity.

> *"Aboriginal concepts that connect people to Country and to living things through a web of relationships are akin to the meaning of the English term 'biodiversity'"*[6]

First Nations peoples have relied on native plants and animals for survival, providing all food, medicine, materials, shelter and other essentials. They have a complex suite of connections to and responsibilities for biodiversity which vary depending on each groups' customary laws, cultural practices and protocols. The loss of biodiversity presents as a loss of cultural integrity to First Nations peoples.

Opportunities

It is proposed that the new Biodiversity Act establishes a way to recognise and safeguard biodiversity that has cultural value or importance to First Nations peoples.

A new Act could establish a framework that enables First Nations peoples' perspectives to be heard and appropriately incorporated into decision-making about biodiversity where First Nations peoples wish for this to occur. The Act will need to ensure cultural protocols and conventions are respected to ensure First Nations peoples' perspectives are not misused or appropriated.

It is proposed that a new Act will seek to uphold the rights of First Nations peoples by aligning with other Australian jurisdictions and key international commitments (e.g. the United Nations Declaration on the Rights of Indigenous Peoples) and protocols (e.g. the Nagoya Protocol under the Convention on Biological Diversity). By seeking to partner with First Nations peoples to manage biodiversity better, the result is likely to benefit both biodiversity and First Nations peoples.

First Nations engagement

In addition to the consultation opportunity being provided with the release of this discussion paper, development of the new Act requires additional targeted engagement and consultation with First Nations peoples.

There will be several options for First Nations peoples and groups to be heard in this process and we look forward to being able to keep you informed when those opportunities become available.

We encourage First Nations peoples to complete the survey accompanying the discussion paper and provide their contact details which will enable us stay in touch and provide more details on the First Nations engagement opportunities.

Alternatively you can subscribe (without having to complete the survey) by registering your details at **environment.sa.gov.au/biodiversity-act.**



Topic 2 – Avoiding impacts

Promoting avoidance and minimisation of impacts to biodiversity

Our modern demands on nature and its capacity to regenerate are unbalanced. Decisions made in regard to land use change do not always prioritise the need to conserve biodiversity. This can result in habitat loss and put further pressure on at risk species.

Whilst some decisions made are clearly justifiable, there are others where processes fail to protect or enhance biodiversity. The way we think about biodiversity needs to change in order to reduce or avoid impacts to it.

Opportunities

The new Biodiversity Act could require any action that could harm biodiversity, such as development projects, to first consider ways to avoid or minimise that harm. This follows the approach of the mitigation hierarchy, which is a tool that seeks to limit negative impacts on biodiversity.

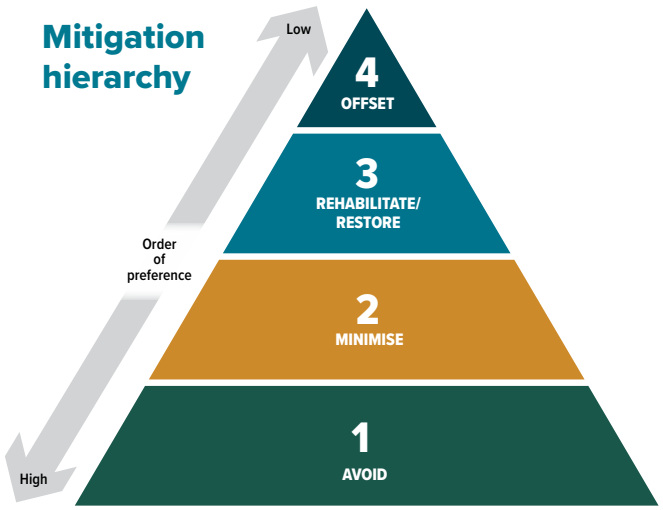
Avoidance is the most important step in the hierarchy – and the only way to guarantee no harm is done to biodiversity. Only after the 'avoid' and 'minimise' steps of the hierarchy have been rigorously applied and any temporary impacts to biodiversity addressed through restoration, should offsetting be considered.

The pathway to offsetting requires careful management and control. In many situations, offsets are not appropriate solutions, especially for species at risk of extinction and ecosystems at risk of collapse, which makes it essential to establish limits to their use[7].

For this to be successful, the requirements would need to be strictly applied and documentation made readily available to the public. A new Biodiversity Act could establish a framework with clear guidance on these requirements.

Matters for consideration

1. The Act could seek to prioritise avoidance and minimisation of impacts to biodiversity and make it clear that any negative impacts to biodiversity are the last resort.
2. The Act could provide for a framework that includes clear guidance on the requirements to avoid and minimise impacts to biodiversity.
3. The Act could require evidence is provided justifying how avoidance and minimisation have first been addressed as per the mitigation hierarchy.
4. The Act could make it clear that any action taken having impacts to biodiversity must leave biodiversity in a measurably better state than it was before.





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Topic 3 – Transparent decision-making

Ensuring awareness of outcomes

Being open and transparent strengthens trust and confidence and enables the public to hold decision-makers to account, leading to better outcomes. Transparency is widely recognised as a crucial element in environmental policy settings, so that outcomes of processes, as well as the nature of the impact, are well understood by the community.

Decision-making processes for land-use planning are often made in recognition of a series of principles grouped collectively as ecologically sustainable development (ESD). ESD is incorporated in multiple laws relating to planning and environment across the country, but often there is an absence of guidance provided as to the priority or weight to be afforded to the various principles.

Opportunities

The new Act could establish requirements to demonstrate evidence in decision-making and ensure this information is available to the public. This would provide clarity about how steps were taken to avoid impacts and justification for the decisions made.

Reporting on impacts or actions taken to repair biodiversity once they occur could be improved in the new Act. Reporting is particularly critical where offsetting is permitted so that the details of the offset, such as the design, location, environmental contribution, temporal and spatial parameters, delivery of obligations, success, etc. are disclosed for future review.

Mandatory reporting on impacts to biodiversity that have permission to proceed via adopted policies or standards could be considered as an additional measure in the new Act to improve disclosure.

Additionally, regular assessment and evaluation of the effectiveness of environmental decision-making could be established to drive improved performance.

The Act could seek to foster a shift towards emphasising the proper application of the principles of ESD relating to biodiversity conservation in decision-making processes.

Matters for consideration

5. The Act could require government maintain a public register to ensure decisions made that impact biodiversity are disclosed.
6. The Act could require mandatory reporting so that impacts to biodiversity and actions taken to repair biodiversity are fully disclosed.
7. The Act could incorporate a clear definition of Ecologically Sustainable Development and ensure a process is created so that application of the ESD principles are required in the context of decision-making about biodiversity.



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Topic 4 – Threats to biodiversity

Recognising threats to biodiversity decline and improving our management of them

Much of South Australia's agricultural zone was cleared of native vegetation following European colonisation, and most of what is left predominantly exists in small, isolated patches, prone to disturbance and degradation. Even today, the loss of habitat and fragmentation continues due to the clearing of native vegetation, intensifying land use, urbanisation and land use change, a growing population and associated infrastructure development. It remains one of the largest drivers of biodiversity loss in South Australia[8].

Other identified threats include invasive plants and animals, inappropriate grazing, altered fire regimes and the impacts of climate change[9].

These threats can also interact and be cumulative, which can intensify effects and be hard to predict[10].

Opportunities

Existing South Australian legislation doesn't require biodiversity threats to be identified. Requiring this within a new Act can improve awareness, enable policy and legislative reform, generate research and foster cooperation to address them.

Including provisions for the recognition of threats to biodiversity in the new Act will bring South Australia into line with other jurisdictions, including the EPBC Act.

More action can also be taken on these threats. A new Act could require the identification of actions that need to be taken to minimise the impact of threats, along with reporting on the success of these measures.

Being responsive to new or potential threats can also be considered in a new Act. Natural disasters such as bushfires can have a significant impact on threatened species and can result in common species becoming threatened[11]. Ensuring our laws can quickly respond to emerging threats is critical to enable rapid action on impacts to biodiversity.

Matters for consideration

8. The Act could provide for a framework for the identification of threats to biodiversity.
9. The Act could include statutory obligations for actions to address threats to biodiversity.



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Topic 5 – Assessing the risk of extinction

Improving understanding of extinction risk and implementing mitigation measures

Species play specific roles within ecosystems. The loss of a single species can disrupt the balance of an ecosystem and have flow on effects on other species, ecosystems, First Nations cultures and the broader community.

Formally listing threatened species is a way to highlight the extinction risk of plants and animals and inform conservation actions.

Opportunities

Creating a scientific committee responsible for threatened species listing in South Australia can increase community confidence in the listing process and ensure decisions are based on scientific evidence. South Australia is the only state in the country that doesn't have a scientific committee involved in listing threatened species.

All species are part of biodiversity and the Act could include a clear definition of 'species' that includes plants, mammals, birds, reptiles, amphibians, invertebrates, fungi, etc.

The Act could formalise a process for listing, assessment and review. This could include a clear nomination process where anyone can propose amendments to the lists, and a process for public consultation and feedback on changes.

A new Act could require a definition of criteria to ensure consistency and transparency in listing assessments in line with other jurisdictions.

Currently, updates to the listing schedules are not mandated, nor are they prioritised due to limited resources. The last major review occurred in 2008 with some minor amendments in 2020.

The Act could create a more streamlined and agile process for regular list amendments.

Current legislation does not include obligations to monitor, report on or implement actions for listed species. This is an identified gap and a proposed area for improvement as part of a new Act.

Matters for consideration

10. A scientific committee should be established to guide listing, assessment and review of extinction risk of biodiversity.
11. The Act could provide greater clarity on the types of native species that can be considered as threatened.
12. The Act could require the creation of a formal listing, assessment and review process that establishes clear pathways for nomination, consultation and review.
13. The Act could adopt a streamlined process for list amendments to ensure lists remain current.
14. The Act could ensure that programs implemented to address biodiversity decline are evaluated.
15. Where a new extinction occurs, the Act could establish a requirement to examine and report on the causes and actions that contributed to it.
16. The Act could establish a framework to document measures to improve the status of biodiversity assessed as threatened.



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Topic 6 – Biodiversity planning and reporting

Supporting state level planning for biodiversity priorities

South Australia does not have a state-wide biodiversity plan – it is an identified gap in our legislative and policy framework.

Under SA's *Environment Protection Act 1993*, the Environment Protection Authority (EPA) must prepare a State of the Environment Report at least every 5 years on the condition of South Australia's air, water, sea and land. The last report was prepared in 2018 and this includes a recommendation for the development of a state-wide biodiversity plan to prioritise conservation efforts across the landscape[12].

Opportunities

Whilst the need for a state-wide biodiversity plan doesn't need to be written in law, requiring a plan within the new Act would make its preparation non-negotiable and provide a level of authority. The Act could go a step further by detailing the matters a state-wide biodiversity plan must address and what must be reported on.

It could also require other legislation or processes to consider or take account of the plan and its priorities, further increasing alignment and outcomes.

A state-wide biodiversity plan would provide greater focus on issues affecting biodiversity and effective reporting to drive necessary action and would support and inform the high-level biodiversity reporting that would continue to be part of the EPA's State of the Environment Report.

Matters for consideration

17. The Act could mandate a state-wide biodiversity plan or strategy where measurable targets are set and regularly reported on.
18. The Act could require any state-wide plan or strategy to be regularly reviewed and updated.



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Topic 7 – The benefits of information

Better data collection, collation, interpretation and dissemination

Collecting and sharing information promotes transparency and collaboration between the community and government and leads to improved knowledge to inform decisions.

DEW manages the Biological Databases of South Australia (BDBSA) which together with the State Herbarium of SA database contains over 6 million map-referenced observations of plant and animal species.

DEW is currently leading a project to develop BioData SA, improving the quality of information that can be made available for better evidence-based decision-making.

Opportunities

A robust information base is essential to underpin the effectiveness of a new Act. Quality and easily accessible information will ensure decisions are based on evidence and that biodiversity-related policy is developed using the best available information. A platform that enables effective sharing, embeds agreed standards and is supported by robust governance frameworks for biodiversity information, is central to a modern Act.

A new Act can support better information sharing and availability without adding complexity to existing processes. Providing better information on biodiversity early in processes will increase awareness of possible impacts before financial commitments are made. This will help guide better decision-making, encourage good design that promotes avoidance and assist in providing certainty about where biodiversity impacts can't occur. This will ultimately build confidence in investment and foster a shift towards a culture that seeks to avoid, rather than offset.

Planning processes related to biodiversity should set goals and targets that are measurable, and these targets must be underpinned by effective monitoring programs. A new Act is an opportunity to establish requirements for improved biodiversity reporting.

Matters for consideration

19. The new Act could provide for a framework to enable the sharing of biodiversity information with the community and across all levels of government to assist in decision-making.
20. The new Act could establish the Department for Environment and Water as the responsible government agency for the management of South Australia's biodiversity information.
21. The new Act could establish requirements for the submission of biodiversity data collected in South Australia to a central repository.
22. The new Act could direct the development of a policy that describes requirements for the collection, collation, interpretation and dissemination of biodiversity information.



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Topic 8 – Achieving 30 by 30

Exploring new and different ways to protect nature

Establishing dedicated areas where biodiversity is protected from threatening processes has long formed the foundation of nature conservation across the world. This concept of protected areas are a globally applied and effective management tool that have been in use in Australia for over one hundred years.

Australia is committed to the global '30 by 30' target, which calls for protection of 30% of the Earth's lands, oceans, coastal areas, and inland waters – basically, 30% of the planet – by 2030. As at 2020, protected areas cover just over 16% of the Earth's terrestrial areas and inland waters, and almost 8% of all marine and coastal areas[13].

The National Reserve System (NRS) is Australia's network of protected areas. As of 2022, 22.1% of Australia's landmass was protected under the NRS.[14]

DEW is responsible for protected areas on state government land, which can be formally established as National Parks, Conservation Parks, Recreation Parks, Game Reserves, Regional Reserves, Wilderness Protection areas or Zones, Marine Parks and Conservation Reserves.

This equates to protection of 21% of land, and almost 45% of the state's marine waters.

South Australia has several other mechanisms in place that support conservation outside of the formal protected area system managed by DEW including:

- Native Vegetation Heritage Agreement, available to private landholders
- Indigenous Protected Areas (IPAs) are recognised through an agreement between the Australian Government and the First Nations owners of the land
- Native Forest Reserves, on land managed by Forestry SA.

Opportunities

It is proposed the new Act places emphasis on increasing the network of lands managed for conservation purposes. The protection and restoration of under-represented habitats and ecosystems and connectivity between these areas will assist in promoting conservation outcomes.

In South Australia, incentives are currently available to support landowners who have Heritage Agreements. The new Act could seek to improve, broaden and establish incentives to encourage non-government entities and private landowners to conserve and recover biodiversity.

Matters for consideration

23. The Act could consider broadening or creating schemes to further support the establishment and management of conservation areas on private and other land.
24. The Act could seek to enable additional incentives, including the provision of financial and technical assistance, to landholders who have entered into formal agreements for conservation.



Topic 9 – Biodiversity – a shared responsibility

Ensuring we all pay attention to and care for nature

The responsibility for looking after biodiversity should rest with all South Australians who interact with it. We must not carry out any activity that causes or is likely to cause impacts to biodiversity unless we take all reasonable and practicable measures to prevent or minimise the harm.

Put simply, we are responsible for the actions we take that affect biodiversity. Everyone is affected and everyone has a role.

Opportunities

A general duty of care is a legal obligation that is imposed on an individual so that a standard of reasonable care is met. In environmental law, the duty is owed to the environment itself instead of other people so that impacts to nature due to careless activities are minimised.

By establishing a general duty of care within the new Act, industry, community, government (both local and state) and individuals must care for biodiversity and do what is reasonable and practicable to prevent or minimise any harm to it.

For a duty of care to be effective it must be linked to some type of enforcement action. This may, for example, consist of the issuing of an order or a notice that requires a person or company to rectify damage or act to prevent further harm.

When a duty of care is imposed in law and is well supported by guidelines and complemented by other initiatives (educational programs, financial incentives and voluntary action), it can boost understanding within the community about the importance of caring for biodiversity and therefore encourage appropriate behaviour.

Voluntary standards and codes of practice would be a practical means of fulfilling the duty.

Matters for consideration

25. The Act could be clear about the respective roles and responsibilities of the community by introducing a ‘biodiversity duty of care’, which makes the protection of biodiversity a continuous legal and social responsibility.
26. If the inclusion of a ‘biodiversity duty of care’ in the Act is supported, it could be tied to relevant administrative powers and to civil penalties.
27. The Act could include provisions so that guidelines and regulations can be made to ensure South Australians understand and comply with a ‘biodiversity duty of care’ obligation.



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Topic 10 – Consequences of doing the wrong thing

Introducing stronger penalties and more options for enforcement

Biodiversity conservation legislation often has strict regulations and prohibitions which are enforced by government authorities through penalties. They do, however, have some shortcomings including a lack of flexibility and focus on punishment.

Currently, there are inconsistencies relating to enforcement provisions within the current framework of SA legislation. This includes duplication in offences and inconsistency in the types of sanctions and penalty ranges.

Penalties could also be considered out of step when comparing South Australia to other jurisdictions. For example, the current maximum penalties for offences relating to the harming of protected animals range from $2,500 - $10,000 (up to $100,000 for marine mammals). In contrast, in other states similar offences attract much higher maximum penalties such as Qld (ranging from $15,480 - $464,400) and NSW ($22,000 - $330,000 for individuals and $110,000 - $1,650,000 for corporations).

Opportunities

In response to the limitations of the traditional approach, contemporary alternatives are gaining recognition.

Instead of solely relying on criminal penalties brought by or on behalf of the state, the new Act could consider incorporating civil options. This can allow for more tailored responses to offences and encourage resolution which may be critical in achieving biodiversity restoration.

Extending the category of parties that may bring legal proceedings in biodiversity cases can empower the community and environmental groups and can supplement government enforcement efforts. The new Act could consider allowing third parties to bring proceedings in the public interest.

Matters for consideration

28. The Act could seek to align sanctions and penalties for similar offences, having consideration where possible of levels imposed through other jurisdictions.
29. The Act could enable suitable non-government parties to commence proceedings for offences under appropriate circumstances.
30. The Act could apply a contemporary risk based approach to the types of enforcement actions available such as compliance and remediation orders, civil remedies and other alternative penalties.



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Thank you

Thank you for participating in this consultation on a new Biodiversity Act for South Australia.

Your feedback will help us better understand community expectations for biodiversity conservation and identify opportunities that can be addressed by a new Act. We recognise community members' diverse interests and the different views that will be brought to this consultation.

Subscribe to keep up-to-date on the development of the Biodiversity Act at **environment.sa.gov.au/biodiversity-act**

Other feedback you can provide

Email any comments to **biodiversityact@sa.gov.au**

Post any written feedback or comments to:

Biodiversity Coordination Unit
Department for Environment and Water
GPO BOX 1047
Adelaide SA 5001

Sharing the YourSAy web link can encourage others to provide their input.

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