



The Hon Dr Susan Close MP Deputy Premier,  
Minister for Climate, Environment and Water  
ADELAIDE SA, 5001

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18 February 2025

Dear Deputy Premier,

**RE: Development of a Biodiversity Act for South Australia**

I write to you to outline the South Australia Nature Alliance's (SANA) response to the recent release of the Biodiversity Bill 2025 (the Bill) for public consultation.

There are a number of elements of the draft legislation that SANA supports; these are outlined below (along with our strong recommendations for further improvements).

- tougher penalties for breaches,
- improving transparency in environmental decision-making, for example by establishing a Biodiversity Register,
- the right of community involvement through third party standing for civil enforcement of breaches of the Act,
- increased emphasis and value placed on First Nations knowledge and culture,
- improvements to wildlife trade, such as the removal of the 'unprotected' list and establishing protection provisions for threatened invertebrates, amphibians and fish,
- the creation of a Biodiversity Council; however, this should have stronger powers namely the ability to create SEB policy and recommend funding requirements for

the Biodiversity Plan,

- the requirement for a Biodiversity Plan; however, this will be largely ineffective without funding,
- introduction of provisions for listing threatened ecological communities and critical habitat; however, while welcome additions, the Minister should be compelled to declare these rather than it being discretionary, and
- protection for planted natives; although this should be 10 years as revegetated areas typically are providing good habitat within this time-frame.

However, while the Bill provides some incremental improvements to biodiversity protections, it does not go nearly far enough to create the step change that is urgently needed in this regard, nor for meeting the Bill's stated objective to drive upscaling of ecological restoration in SA.

On 16 April 2024, SANA wrote to you outlining its key issues regarding the development of this Bill. SANA then met with you on 19 April 2024 to discuss these issues.

SANA is disappointed that **all but one** of the key issues outlined have not been addressed in this Bill. Other than avoiding reference to the concept of 'ecologically sustainable development' in the Objects for the Bill, which SANA supports, the Bill:

- Does not confer **primacy** to the responsible Minister, rather it appears to explicitly be subordinate to other Acts where there is conflict, as reflected at clause 4(1).

Primacy is absolutely critical to the success of this legislative re-drafting exercise. As you would be aware, Ken Henry highlighted the lack of primacy as a critical flaw in his review of biodiversity legislation in NSW.<sup>1</sup>

This Act must therefore establish the ability for the responsible Minister to refuse specific individual, proposed actions that will have an egregious and unacceptable impact on biodiversity that may be received and considered through other decision-making systems, such as land-use planning.

Ideally the Act would provide for the creation of a clear, unambiguous spatial tool that can inform the specific application of this form of planning primacy. That spatial tool should illustrate not only the presence of biodiversity values requiring protection, but also prevent areas of the landscape where future restoration is earmarked (to make reaching a 30% target feasible) from inappropriate development or land-use change.

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<sup>1</sup> [Independent Review of the Biodiversity Conservation Act 2016-Final.pdf](#)

- Does not reform the **environmental ‘offsetting’** process in any substantial way, other than restricting the use of payments in lieu of ‘offsetting’ to what will likely be a handful of native plant clearance applications in practice.

Critically, the Bill does not provide for a definition of what an “**unacceptable impact**” of development proposals on biodiversity would be nor create an associated mechanism for refusing such proposals, which SANA explicitly called for.

- Does not establish any mechanism for collecting or levying a new source of **funding** to enable the Minister or the various bodies established under the Act to adequately invest in delivering outcomes to achieve the Objects of the Act (such as issuing open grants to deliver action plans or the large-scale ecological restoration that we know is necessary to improve the state of biodiversity). Placing a levy on growth industries that rely on, or heavily impact, natural resources (such as mining and renewable energy) is one example of a form of revenue that would be entirely appropriate for this new Bill to secure.

Further, clause 27 establishes the potential for a statutory trust of the kind SANA advocated for in its letter of 16 April 2024. Conventional practice would be for this trust to be established within the statute itself, it would be highly irregular for it to be done in Regulations. SANA can therefore only assume that the Government’s commitment to establishing such a trust is limited or non-existent, especially as there is no means provided within the Act for funding such a body.

There is a critical shortfall of investment in South Australian nature repair. Funds must be committed to scaling up private land conservation, expanding and ensuring the climate resilience of our protected area estate and the regeneration of ecosystems and habitats. The development of an overarching Biodiversity Plan to guide action is a positive step forward, however without funding, this will be yet another Biodiversity Strategy that remains ‘on the shelf’.

- SANA supports third party standing for enforcing breaches, which the Bill includes, however, SANA also called for third party standing for decisions made under the Bill (i.e. **merits review**), which has not been included.

## *Summary*

SANA is concerned that these critical issues will not be satisfactorily dealt with prior to the introduction of the Bill to Parliament, which it understands is imminent. **SANA wants to support the Bill but needs it to adequately incorporate the critical issues outlined.**

The elements of the draft legislation that SANA supports, while welcome, are not enough to achieve the stated Objects of the Bill – including **‘to protect, restore and enhance biodiversity such that there is an improvement in the state of biodiversity at all scales’**. This is an Object SANA can support, but a stronger Bill with the ability to raise revenue (independent of fees and fines associated with nature use or destruction) is required to achieve this.

SANA urges a resolution of these issues to ensure the Bill generates ‘transformative ways of thinking and acting’, as outlined in the proposed Principles of the Act.

We welcome the opportunity to work with you to strengthen the proposed legislation.

SANA looks forward to your response.

Yours sincerely,

[Redacted signature]

[Redacted name]  
[Redacted title]