

Developing a Biodiversity Act for South Australia – Discussion Paper

Date: 18 February, 2025

Thank you for the opportunity to provide comment on the draft *Biodiversity Bill 2025*.

BirdLife Australia is an independent grassroots charity, with more than 360,000 supporters throughout Australia. We have been the voice for Australia's birds for over a century, protecting native birds and their habitats with on-ground projects and advocacy, informed by rigorous science and sound academic partnerships. Our conservation programs adopt a multi-species landscape-scale approach that is supported by thousands of volunteers and citizen scientists.

BirdLife Australia has played a major role in the conservation and monitoring of Australia's birdlife throughout our 120-year history. We have invested in long-term threatened bird conservation programs, often in partnership with other organisations and communities, bringing together research, education, on-ground remediation, advocacy and campaigning. The organisation relies on thousands of volunteers and citizen scientists who play a key role in delivering our bird conservation programs.

BirdLife Australia would like to acknowledge the detailed submission from Birds SA, an organisation for birds and birdwatchers in South Australia, which is affiliated with BirdLife Australia. We welcome Birds SA's significant local knowledge of the conservation and management of South Australian Birds. We would encourage the South Australian Government to utilise the deep expertise of both Birds SA and BirdLife Australia, which has been working actively in South Australia for over a decade, to ensure the Biodiversity Act protects native birds and their habitats.

Introduction

Nature is in crisis in South Australia. The [2020 Threatened Bird Index](#) shows that between 1985 and 2020, South Australia's Threatened birds declined by over 90 per cent on average, the worst performance of any Australian State or Territory (APAB 2020).

One in eight of the world's bird species is threatened with extinction. As their status continues to deteriorate, with species moving faster than ever towards extinction¹. Birds provide a clear indication of the critical need globally to protect remaining natural habitats to reduce the risk of species' extinction. Intact ecosystems that remain unmodified and undisturbed by human activities are a high priority for conservation. More than 334 Key Biodiversity Areas (KBAs) have already been declared in Australia, largely because of their importance for birds. In South Australia, 35 KBAs have been identified as places of global significance for the conservation of birds and other wildlife.² These hotspots for nature have been identified according to the global standard (IUCN, 2016) to ensure they are well managed and protected for the wildlife that depends on them.

Responsibility for looking after biodiversity rests with all members of the community and actors in the economy. It is critical that we protect and recover South Australia's biodiversity, and a strong new Biodiversity Act is a key foundation to help us achieve this goal.

¹ https://www.birdlife.org/wp-content/uploads/2022/09/SOWB2022_EN_compressed.pdf

² <https://www.keybiodiversityareas.org.au/>

If the proposed Biodiversity Act falls short of what is required to conserve nature in this State, we risk shifting to a track of irreversible decline across the State. The proposed Biodiversity Act has the potential to optimise the use of resources, investment and collaboration to achieve greater effectiveness in delivery of biodiversity protection measures, which would be significant a leap forward for improving conservation outcomes in South Australia.

It will be important to use clear and unambiguous language to ensure that a duty of care is well defined and understood by all, and there exists accountability, compliance and a firm linkage to consequences for breaches of the duty.

BirdLife Australia strongly supports the creation of a modern and effective Biodiversity Act and commends the state government on engaging in an open and consultative drafting process. While we welcome the commitment to ensure the Biodiversity Act fulfils its promise to safeguard biodiversity, we recommend the following amendments be made, to better reflect the objects of the Act.

As such, BirdLife Australia endorses the recommendations from Birds SA, with specific reference to the following:

1. We remain concerned that the formulation of 'reasonable measures', may be used as a loophole by developers who did not know about the presence of a threatened species, or failed to seek adequate advice on its habitat requirements. This is particularly relevant to changing land use and development of areas that provide important nesting or foraging areas, and the data deficiency on populations and distribution of many species in some South Australian locations. 'Reasonable' is a subjective term that requires further definition, with the revised definition reflecting the precautionary principle as the appropriate standard in conservation management.
2. To understand the cumulative impact on biodiversity, projects need to be examined within the context of previous projects, current developments, and future proposals at a broader landscape, regional and statewide scale. This needs to be informed by well-resourced, real-time mapping, and monitoring to support decision makers and the community.
3. Appropriate safeguard mechanisms should be adopted to prevent inappropriate development that would have a substantive negative impact on biodiversity, such as the provision of early rejections to clearly unacceptable proposals. Such an approach would assist proponents to plan appropriate developments. Areas of high biodiversity value must be given the highest level of protection in this Act. Offsets should not be used as a trade-off for environmental degradation to critical habitat or functioning ecosystems.
4. Require the Minister to make key decisions within specified timeframes, including the listing of threatened species and the identification of their critical habitat. These listing, to be effective, need to be backed by the allocation of resources for recovery planning. Critical habitat should not only be mapped for the purpose of informing future planning decisions, but these areas should be reviewed to ensure consistency of current management and protection regimes. This would provide opportunities for the Act to be proactive in defining prescriptive advice for maintaining and

preserving critical habitat for threatened species, and native species more broadly.

5. Adopt the standards of practice used by the [Native Vegetation Council](#) when appointing members to the Biodiversity Council and the NPCAC. Appointments should be advertised externally, with a selection panel that includes non-Government members, to ensure probity.
6. 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 the threatened species within three months of any new listing, and a comprehensive Recovery Plan approved and published within two years.
7. Require the Minister, in consultation with the Biodiversity Council, to prepare recovery statements for all currently listed threatened species within two years, and comprehensive Recovery Plans for all currently listed threatened species within three years of listing. This process needs to be appropriately resourced and should include consultation with, and review by, species experts to ensure the department has been informed by current advice on threats and recovery actions. Statewide recovery plans would overcome the current regionalisation of recovery activities and ensure a consistent approach with monitoring for measurable outcomes, and appropriate prioritisation of resources across the state.
8. There needs to be further clarification of the definition of native vegetation, the current one is ambiguous.
9. There also needs to be clarification of when approvals are required in relation to regulated activities involving animals.
10. Consultation with legal experts to ensure the Act is enforceable. This includes ensuring that there are clear, specific enforcement provisions, adequate funding for regulatory bodies responsible for enforcement, accessible avenues for complaint filing, and appropriate penalties for violations. We call for strict penalties when it comes to wildlife crimes.
11. It is still not apparent in the proposed Act where wildlife protection provisions around 'taking and disturbing fauna' would be strengthened. Stricter definitions of disturbance and enforceable terminology that applies to genuine disturbance issues in South Australia are urgently required. For example, the 37 species of migratory shorebirds for which Australia has an obligation to protect under the EPBC Act, and resident breeding shorebirds and seabirds including the threatened Fairy Tern and Hooded Plover for which there are no mechanisms in current legislation (e.g. the *National Parks and Wildlife Act 1972*) to protect these species adequately from disturbance.
12. Require the "no development" orders to be the default status for any unlawfully cleared land, with any subsequent revocation of the order to be published, with the reasons clearly explained.
13. The development of the Biodiversity Plan must include appropriate resources for actions, including open and documented evaluation of outcomes reported back within defined timeframes.
14. Forestry, agriculture and other industries can have significant impacts on Biodiversity that extend beyond their property or management area. Examples of this include the logging of forests without environmental management plans to mitigate impacts on threatened species or threatening processes, and the broad-scale application of herbicides, pesticides or rodenticides. Commercial Forests become important habitats for many species, particularly in areas of agriculture. The current removal of Tasmanian Blue-gum and Radiata Pine on Kangaroo Island is a good example, whereby

there has been no Environmental Impact Assessment of the significant land use change of 'remediation' of these Forestry lands to agriculture, despite clear knowledge of the presence of threatened species (State and Federal listings). Commercial enterprises are a significant threat, as they are often not held accountable for their actions in the way others, such as government agencies, are expected to be.

Conclusion

In response to the global biodiversity crisis, governments have committed, at the international, national, and local level, to halt and then reverse the critical loss of biodiversity

With existing South Australian law not requiring threats to biodiversity to be identified, legislation to both operationalise action and raise awareness has been long overdue.

The new Biodiversity Act must clearly articulate that its primary objectives are to protect, conserve, and restore biodiversity in South Australia, commit to a standard of no new extinctions, and ensure the State's unique ecosystems are protected. To ensure the Act is effective and enforceable, the government must fund its implementation appropriately, including in relation to its administration and funds for the large-scale ecological restoration. Such restoration will be required to build the resilience of our biodiversity into the future, particularly given the escalating impacts of climate change.

We welcome the state government's vision and initiatives to make South Australia a world leader in nature-based tourism. To ensure that the ongoing conservation of South Australia's natural and cultural heritage, it is essential that this industry growth is governed by a rigorous Code of Practice that is aligned to the Biodiversity Act. This will ensure that nature-based tourism activities are appropriately located, designed and conducted in a manner that meets visitor needs, while also protecting environmental and landscape values.