

18 February 2025

Biodiversity Coordination Unit  
delivered via email biodiversityact@sa.gov.au

Dear Biodiversity Coordination Unit,

**RE: Submission on the draft Biodiversity Act for South Australia**

The Invasive Species Council welcomes the opportunity to provide a brief submission on the exposure draft of South Australia's Biodiversity Act ('the Act').

We commend the South Australian Government's commitment to developing a new Biodiversity Act. We acknowledge the current draft includes important improvements for the environment, notably:

- the potential for a more systematic focus on key threats with provisions enabling the declaration of key threatening processes and the development of threat abatement plans
- the creation of a general duty to not harm biodiversity
- the provision of third-party standing to pursue most penalties under the Act (excluding the general duty)
- modernisation of processes regarding the listing of threatened species and threatened ecological communities, and associated regulation, including action plans.

To further strengthen the proposed legislation, we offer the following recommendations.

**Threatened Species and Critical Habitat**

**Recommendation 1:** Adopt the approach used in the *Biodiversity Conservation Act 2016* (NSW), making the independent Scientific Committee responsible for listing decisions (i.e., adding, amending, or revoking the listing of key threatening processes, threatened species, ecological communities, and ecological entities), rather than the Minister. This ensures decisions are based on scientific evidence, not political considerations.

**Recommendation 2:** Include a public nomination process for key threatening processes, including by the Scientific Committee.

**Recommendation 3.** In deciding whether to prepare a threat abatement plan (section 79(1)), require the Minister to take into account advice by the Scientific Committee as to whether such a plan would provide a feasible and effective means to abate the key threatening process, and to publish reasons for not preparing a plan if that decision is contrary to the advice of the Scientific Committee and review that decision every 5 years.

**Recommendation 4:** Require that the Minister *must*, within the allotted 6 months, decide whether or not to declare critical habitat, rather than merely ‘consider’ making a decision (see section 82(2)). This ensures timely action for the protection of critical habitats.

**Recommendation 5:** Require that any decision to amend or revoke declarations of critical habitat be accompanied by a publicly noticed statement of reasons. This promotes transparency and accountability.

#### **Management of Feral Cats**

**Recommendation 6:** Amend the *Dog and Cat Management Act 1995* to extend the power of authorised officers to destroy feral cats in sanctuaries to land under a conservation covenant (i.e., biodiversity agreement), land under a conservation agreement, and conserved areas.

**Recommendation 7:** Amend the *Dog and Cat Management Act 1995* to remove the restriction on controlling feral cats within 1 kilometre of a dwelling in non-metropolitan areas of SA, while retaining existing approval requirements and standard operating procedures for control tools.

#### **Enforcement**

**Recommendation 8:** Remove the exemption for third party enforcement of the general duty (section 114(1)(g)). Based on experience elsewhere, such rights are judiciously and rarely used but can be very useful for testing and clarifying the law and optimising its application. The protections under section 114(2) would ensure that such a right is not abused.

Thank you for considering our submission.

Kind regards,

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