# Developing a Biodiversity Act for South Australia – Discussion Paper

**Date:** 14 February, 2024

Thank you for the opportunity to provide comment on the Developing a Biodiversity Act for South Australia Discussion Paper (the Discussion Paper).

BirdLife Australia is an independent grassroots charity, with more than 430,000 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 also like to acknowledge the detailed submission from BirdsSA and recognise their significant local knowledge of South Australian birds and their conservation and management. We would encourage any further development of the Act to utilise the expertise of BirdsSA and their team.

## Introduction

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 extinction [1]. Birds provide a clear and unequivocal indication of the critical need to protect remaining natural habitats globally 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.

Climate change and biodiversity loss are the two great existential challenges of our time. In a rapidly changing climate, with declining biodiversity, the outlook for the environment is deteriorating – flora and fauna extinctions are accelerating, with Australia a world leader in species extinction and decline. In response to the global biodiversity crisis, governments at the international, national, and local level have declared a commitment to halt and then reverse this critical loss of biodiversity. We strongly recommend that the government ensure the new South Australian Biodiversity Act is aligned to Federal legislation, particularly with the development of reforms to the *Environment Protection and Biodiversity Conservation Act*, and the *Federal Threatened Species Action Plan*, noting three nominated Priority Places[3]

[1] https://www.birdlife.org/wp-content/uploads/2022/09/SOWB2022_EN_compressed.pdf
[2] https://www.keybiodiversityareas.org.au/
[3] https://www.dcceew.gov.au/environment/biodiversity/threatened/strategy/priority-places

and ten Priority bird species[4] occur in South Australia.

The 2020 Threatened Bird Index[5] shows that between 1985 and 2020, South Australia's Threatened birds declined by over 90% on average, the worst of any Australian State or Territory (APAB 2020).

South Australia's *National Parks and Wildlife Act 1972* lists nearly 200 birds as Endangered, Vulnerable, or Rare, a figure that does not include updated listings for SA birds since the catastrophic Black Summer bushfires that devastated unique ecosystems and regions, like Kangaroo Island.

BirdLife Australia has responded to the nine themes in the Discussion Paper and looks forward to working with the South Australian Government to implement a strong Biodiversity Act for the state.

**Topic 2 – Avoiding impacts**

BirdLife Australia supports the Matters for Consideration listed, particularly the use of the mitigation hierarchy. In SA, our protected area networks do not always offer the level of protection that is required under current State Legislation including the *National Parks and Wildlife Act 1972* and *Wilderness Protection Act 1990*. Requiring all new developments to factor in potential harms and mandate a requirement to mitigate harm before approvals are given would assist in decision making and better protect functioning ecosystems on public and private lands. There is a distinct need to build in flexibility and frameworks for the review and adaption of triggers for environmental significance, using real-time information - e.g., species which have undergone distribution and abundance changes due to recent catastrophic events or in response to new information.

Avoiding impacts in areas that are recovering from severe events (such as wildfire, floods or drought) must be identified; such areas must provide increased protection to allow regeneration of habitat and recovery of populations and ecosystems.

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 with well-resourced, real-time mapping, and monitoring to support decision makers and the community. As well as ensuring impacts are adequately measured, cumulative impact thresholds must be identified, and legislative triggers for action - including reassessment of planning and approval instruments - should be considered to enable equitable decision-making now and in the future.

With the draft Greater Adelaide Regional Plan expected to be released this year, which will form the direction for land use, infrastructure and development in SA until 2050, biodiversity, conservation and environmental best practice must be included in these plans. We cannot create a system of environmental silos when so much is at stake.

Vegetation clearance remains one of the greatest threats to birds and is stubbornly high in South Australia, at 1-4,000 hectares a year. We are concerned that so much vegetation is still being cleared and that too

[4] https://www.dcceew.gov.au/environment/biodiversity/threatened/action-plan/priority-birds

[5] https://tsx.org.au/tsx2023/?type=all&tgroup=Birds&group=All&subgroup=All&state=South%20Australia&statusauth=BirdActionPlan&status=NT_VU_EN_CR&management=All&refyear=1985

many projects progress through the mitigation hierarchy to offsetting. Biodiversity offsetting has been shown, time and time again, to be inadequate. This situation will get worse with expansions in essential renewable energy infrastructure.

**Topic 3 – Transparent decision making**

BirdLife Australia supports the Matters for Consideration listed. Reporting on impacts or actions taken to repair biodiversity once they occur must be improved in the new Act. The provision of early advice and intervention will help proposed developments and land use changes align with the Act before they start. Fast-tracking projects *without* rigorous assessment of local and broader environmental impacts, has the potential to undermine nature protection and the values of proper public consultation. An expert panel, as suggested by BirdsSA would ensure that current information and knowledge is shared before the decision-making process is finalised.

Transparency and accountability are essential in ensuring nature is protected and local communities, including First Nations people, are not disenfranchised from decision making processes.

The new Act must ensure that the definition of an ecologically sustainable development (ESD) includes location, as the most ecologically sustainable designs are not appropriate if situated on vegetated dunes, coastal headlands or threatened species breeding refuges.

We support the regular assessment and evaluation of the effectiveness of environmental decision-making as a means of learning from past decisions to guide and inform improvements to future decision making and biodiversity outcomes.

**Topic 4 – Threats to Biodiversity**

BirdLife Australia supports the Matters for Consideration listed. Loss of habitat is one of the largest drivers of biodiversity loss in South Australia, along with effects of climate change, disease, biosecurity, and inappropriate fire regimes.

The current *National Parks and Wildlife Act SA 1972* is outdated and overdue for revision, with no species having been listed in SA since Black Summer, despite Federal Threatened Species listings of numerous SA taxa. Furthermore, it is critical to invest more in the development and update of recovery plans and identification of critical habitat and priority actions to reverse declines and mitigate threats.

Given existing legislation doesn't require biodiversity threats to be identified, the new Act must clearly state how it relates to other environmental legislation, and also identify the threats and regulatory frameworks for mitigating these, to ensure timely policy and legislative reform to address them.

With South Australia the only jurisdiction yet to sign onto the Common Assessment Method[6] for the assessment and listing of threatened species, it is essential that the government use this as an opportunity to endorse this approach to ensure greater consistency and efficiency in the process.

**Topic 5 – Assessing the risk of extinction**

BirdLife Australia supports the Matters for Consideration listed. The Act needs to provide protection measures across biodiversity and ecosystems. This would include acknowledgment of the value and status of all species. We also support the recommendation from BirdsSA that 'that the assessment of threat statutes for species be based on the IUCN Red-listing criteria as they are rigorous and globally accepted'.

[6] https://www.dcceew.gov.au/environment/biodiversity/threatened/cam

Formally listing threatened species is a way to highlight the extinction risk of plants, fungi and animals. It also informs conservation actions.

Birdlife strongly supports South Australia establishing an independent scientific committee to assist in listing threatened species, which will not only increase community confidence in the listing process, but also ensure decisions are based on scientific evidence. If the independent committee is also to assume responsibility for advising measures to improve the status of biodiversity assessed as threatened (matter 16), we recommend that the committee also include members with policy and legal expertise.

Given there are currently no obligations to monitor, report on or implement actions for listed species, implementing standardised monitoring programs for both species and their habitats would help in identifying trajectories.

It will be important for the Department to work closely with organisations such as the Coast Protection Board on how the Act will address climate change and to ensure a complementary approach to biodiversity protection via coastal management. The Act should identify key policies and overlapping legislation for each priority threat identified and establish mechanisms for greater collaboration and joint approaches to policy development.

**Topic 6 - Biodiversity planning and reporting**

BirdLife Australia supports the Matters for Consideration listed. Given South Australia does not have a state-wide biodiversity plan, Regional Plans that sit below the Act, would ensure that local threats, landscapes, and biodiversity values are effectively maintained. Such plans would ideally identify "red zones" – critical habitat for listed species and locations of threatened ecosystems.

Long-term, standardised monitoring programs for both species and their habitats is required as a funded commitment to identify trajectories and evaluate success. Identification of conservation targets should involve collaboration with species experts including BirdLife Australia for threatened birds and their habitats.

**Topic 7 – The benefits of information**

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

Investment in coordination and communications across Australia would ensure efficient use of resources and sharing of lessons learned to maximise impact of actions. Timely data sharing with other organisations including civil society/NGO's is also critically important, with national databases containing large volumes of biodiversity data. Interpretation of data should be done carefully in collaboration with species experts.

Investment in long-term, standardised monitoring programs for both species and their habitat will help to detect changes over time. We encourage the Department to consult and invest in existing long-term monitoring programs to avoid reinventing the wheel and ensure continuity and consistency of long-term databases. Any new policy development that advises on methodologies and interpretation must not jeopardise established and long-term programs that are effectively monitoring and evaluating biodiversity measures to inform adaptive management actions.

Birdata and BirdLife standardised 20 min 2 ha counts are a platform to report on many terrestrial bird species in the state – this has been shown in the highly successful Nature Conservation Society Mount Lofty

ranges Bird Survey.[7] This sort of program can be rolled out across the state and complimentary programs developed for waterbirds, shorebirds, seabirds and cryptic or low-density birds. Time and time again it has been shown that long-term monitoring of birds by citizen scientists delivers quality data to inform policy and best practice management.

**Topic 8 – Achieving 30 by 30**

BirdLife Australia supports the Matters of Consideration but recommends that the 30 per cent target is applied to all habitat types in every bioregion, and not just the state as a whole.

We urge the Act to consider more than just the protection status of areas, and call for appropriate investment in the resources, capacity and coordination of managing, monitoring and evaluating sites to ensure they are equitably and effectively managed to meet biodiversity targets. Reviewing the effectiveness of current tenure and management regulations will enable the department to identify minimum requirements for protecting biodiversity. For example, the status of the Coorong National Park is not genuinely providing the protections for key biodiversity within this park, when breeding and roosting shorebirds are significantly, negatively impacted by legal vehicle access and tourism operators.

The Biodiversity Act should create and improve definitions and a framework for identifying and enacting Critical Habitat protections, including identified areas of historic or future breeding refuges.

In the absence of knowledge, or data deficiency, the precautionary principal must apply in matters that have the potential to impact on biodiversity and functioning ecosystems.

**Topic 9 – Biodiversity – A shared responsibility**

BirdLife Australia supports the Matters for Consideration. The responsibility for looking after biodiversity is all of ours. It is vital that we protect and recover South Australia's biodiversity, and only a strong new Biodiversity Act can ensure we can achieve this critical goal.

It will be important to use clear and unambiguous language so that a duty of care is well defined and understood by all, and there is accountability, compliance and links to consequences (topic 10).

We see opportunities to improve awareness of threats and create best practice advice for key agencies and organisations whose impact can be high on biodiversity, for example, tourism operators.

**Topic 10 – Consequences of doing the wrong thing**

Biodiversity conservation must be enshrined in law if it is to be a success. Enforcement will rely on appropriate resourcing and education, and penalties for any breaches. While civil remedies are being explored, we do not support a weakening of penalties for serious offenses and require an Act with strong, effective compliance and penalties around serious wildlife crimes and native vegetation offences. The Act is an opportunity for consistency in penalties for wildlife offences that may occur on public land managed by different authorities (e.g. local and state government).

**Conclusion**

With existing South Australian legislation not requiring biodiversity threats to be identified, it is high time for a new Act to improve awareness and enable policy reform.

[7] https://www.ncssa.asn.au/mount-lofty-ranges-woodland-birds/#:~:text=It%20aims%20to%20collect%20%26%20assess,large%20MLR%20Bird%20Sites%20Map.

In line with the Federal Government's commitment to no new extinctions, the new Biodiversity Act must clearly articulate that its primary objectives are to protect, conserve, and restore biodiversity in South Australia, to guarantee no new local extinctions, and ensure the State's unique ecosystems are protected.

We need to ensure that land use planning laws are included and considered in the principles and there is a connected framework between all relevant Acts. The way land is managed and used has a significant impact on the survival and wellbeing of species and their habitats.

Effective land use planning should provide a framework for managing land use activities in a sustainable manner, including the protection of natural areas, the preservation of critical habitats and the prevention of habitat fragmentation.