

Draft SA Biodiversity Bill - comments

[REDACTED], 16 February 2025

“Native plant” definition - Bill, p15

I disagree with definition part (a) “a plant of a species that is indigenous to Australia”. Definition should be restricted to species native to SA. This does not limit the ability to respond to climate change as SA has a range of semi-arid and arid ecosystems with diverse floras without the need to introduce non-SA species from other states. The number of plant species from other states becoming feral is increasing more quickly than they are declared under the Landscape Act. Generally the only control applied is prohibition of sale. This provision is unnecessary and may have adverse consequences.

Circumstances in which consent may be given etc - Bill, 50, pp 39-41

Recreational tracks can have a significant initial and ongoing impact and need to be monitored and managed continuously in native vegetation (often not) - they should be treated as any other land-use that causes vegetation loss and degradation. Recreational tracks should therefore be removed as a “specified circumstance”. An example of clearance of native vegetation for bike paths is critical habitat in Mt Remarkable NP which was not subject to a full EIA. Any proposal to clear native plants for recreational tracks should therefore be subject at least to assessment against the Principles of Preservation of Native Plants.

Listing process – Bill, 74, p56

Species included in the current schedules of the NPW Act should be automatically transferred to the new schedules and not have to be re-nominated and assessed unless their status has changed.

Order where native plants have been cleared - Bill, 115, p86

In the following clause, why should 'original plants' that survived the clearance be cleared?

(a) where some of the original plants are still growing or situated on the land—direct that they be removed so that the new plants can be established on the land;

State Biodiversity Plan - Bill, 160, p112

A SBP is long overdue and urgently needed. Key components of the plan should be drawn wherever possible from existing documents such as the 2016 Northern and Yorke Region Conservation Action Planning documents. A review and report on the Plan by the minister should be at least every 5 years, preferably every 3 years.

Statutory Bodies - Bill, Division 2

NPCAC Board composition

There is room for improvement in the composition of the NPCAC to replace the NVC with a history of appointments with limited expertise.

Bill, p26 – **Scientific research:** This position needs to be more specific to the role, i.e. *Scientific Research in Biological Science*

Biodiversity Administration Funds – Explanatory Guide, p 14

Restoration, Conservation & Admin are to be funded through offences, with no indication of State government investment in biodiversity restoration or conservation work (“plant and animal conservation programs”, p14) independent of offences revenue.

The Conservation Fund should at least be annually funded as a recurrent budget line through State Treasury, and not be dependent on revenue from offences.

Mitigation hierarchy and SEB - Part 4 Explanatory Guide

Since the cessation of broad-acre clearance in 1985 in SA, incremental clearance of native vegetation has resulted in a substantial cumulative loss of natural biodiversity through illegal clearance, clearance approvals, exemptions, etc.

A biodiversity gain cannot be achieved following clearance of native vegetation. A loss has occurred and this cannot be regained. An “*environmental* benefit” may potentially be achieved (at another site) only where there is no existing duty of care and where some intervention can prevent further environmental degradation.

The Mitigation Hierarchy, supported by the SEB Policy, and offering clearance options to “avoidance” is somewhat at odds with Principle (a) in Part 2—Objects, principles and general duty: “that halting and reversing biodiversity loss, such that there is an improvement in the state of biodiversity, will require embracing new and transformative ways of thinking and acting to support the environment...” I suggest “new and transformative ways of thinking and acting” may be as simple as exercising the political will and courage to adhere closely to the objects of the Act, and complying fully with subordinate policies in all decision-making.

In the event that clearance of native plants cannot be avoided and “minimisation” is directed, an SEB scheme should not apply or be delivered to land or a site where there is an unmet duty of care or responsibility for existing native plants. The SEB Policy¹ states that: “Biodiversity offsetting should always be considered the option of last resort”, and “Biodiversity offsets must never be used to circumvent responsibilities to avoid and minimise damage to biodiversity, nor to justify projects that would otherwise not happen” (Principle 2).

Another issue of concern is the poor administration of SEB schemes to date which have often failed to deliver planned outcomes, resulting in little or no net environmental benefit over the life of the whole SEB Program.

¹ Native Vegetation Council (2024). Policy for a Significant Environmental Benefit. Government of South Australia, Department for Environment and Water, Adelaide.

Extinction inquiries - Explanatory Guide, Part 6, p22

An inquiry once a species has become extinct is too late for that species. It would be of greater value to conduct extinction inquiries at the population level – i.e. if a key population of a species becomes extinct whilst other populations are still extant, an inquiry into this loss would help to improve efforts to conserve the remaining extant populations before the species as a whole becomes extinct. Conservation planning for threatened species must begin at the population level.

Related Amendments – PDI Act - Explanatory Guide, p34

Biodiversity State Planning Policy under PDI Act is to “comply with BD Act”, but an EIS for an Impact Assessed Development is only “referred to the Biodiversity Minister for comment” by the Planning Minister who only needs to “consider the views” of the Biodiversity Minister. This gives little comfort for good biodiversity outcomes.

I agree with the proposal to amend the PDI Act to require Biodiversity Minister to consent to any amendment to the Planning and Design Code that affects an overlay or zone of importance to biodiversity.

Impact of State Planning Policy

The PDI Act and State Planning Policy are driving rapid land-use change in peri-urban and rural areas leading to the rapid urbanisation of the rural landscape in some parts of the State such as the Mt Lofty Ranges. This has serious implications for biodiversity conservation and presents significant resourcing challenges for biosecurity managers. As this is not being addressed effectively at a high policy level, it is important that the Biodiversity Minister should have the power to *initiate* an amendment, and provide consent, to the Planning and Design Code that affects an overlay or zone of importance to biodiversity.

Principles of preservation of native plants - Bill, Schedule 3, p134

A new principle should be added to address the risk of approving clearance of native plants where the assessment under-estimates the diversity of the vegetation due to inappropriate seasonal timing and the potential for recovery by annual and ephemeral species not evident during the survey:

They comprise part of an ecological community that has been modified in an area which may have been extensively cleared, and is likely to reveal a higher diversity of species, particularly annuals, ephemerals and cryptic species, when assessed at different or other times