Mt Barker & District Residents' Association Inc.
PO Box 19 Mount Barker, South Australia 5251

For the Community

9 February 2024

To the Biodiversity Coordination Unit, Department for Environment and Water

RE: Mt Barker & District Residents' Association (MBDRA) response to a new Biodiversity Act for South Australia

The Mt Barker & District Residents' Association (MBDRA) appreciates the opportunity to provide feedback to the development of South Australia's new Biodiversity Act.

We support the development of a new Biodiversity Act for South Australia and commend the State Government for initiating this, especially given the rate of extinction, land clearing and the climate crisis. There is no better place which illustrates the challenges we face than in Mount Barker and more generally across the Adelaide Hills, as development and land clearance occurs with little to no consideration of the impact on the natural environment.

Our expectations in relation to biodiversity conservation is to have strong, enforced, and resourced nature laws that effectively protect and conserve native flora and fauna. From our experience, provisions in existing legislation (especially the Native Vegetation Act, Planning Development and Infrastructure (PDI) Act and the Planning & Design Code) do not adequately protect biodiversity. Decisions inevitably favour development over conservation, landscape, or heritage.

As well as Conservation, we would like to see proactive restorative initiatives to achieve and maintain habitat and ecological diversity, 'wilding', and ecological connectivity. This will require a structural landscape plan, with appropriate input from the CFS and other departments for a wildfire management overview and critical habitat 'node' protection.

A new Act should prioritise a halt to the loss of any further biodiversity while increasing the network of lands managed for conservation purposes and wildlife corridors, better protection for those existing areas of high biodiversity value (eg. Mount Barker Summit Conservation Reserve, Yantaringa Reserve, Totness Recreation Park), and prioritise the restoration of riparian vegetation along creeks and waterways. Roadside vegetation identified as high conservation value also needs to be retained and protected.

We have considered the identified opportunities listed in the Discussion Paper and have indicated our level of support for their implementation along with any concerns and potential solutions. We have also included examples of biodiversity loss across the Mt Barker district in Appendix A as evidence that the current system is failing to protect South Australia's natural environment, fragile eco-systems and the flora and fauna species which depend on them.

Kind regards

Douglas McCarty

Douglas McCarty
Chairperson/Spokesperson

Community expectations about biodiversity

The Mt Barker and district community clearly values its green spaces and natural environment. This was reflected in the 2023 Community Scorecard run by the Mt Barker District Council where the community identified nature conservation and environmental management as a key priority for Council. Over recent years the community have expressed anger at a number of incidents where native vegetation has been removed, most notably in 2019 when multiple 300 year old River Red Gum trees were removed for the erection of a sports field and in 2022 when vegetation was cleared for the construction of a local roundabout. Most recently the community were again distressed to learn of parrot chicks displaced (and permanently separated from their parents) because of the removal of a hollow bearing tree to make way for a housing estate. The alleged illegal removal of native vegetation at Mt Lofty in 2023, which was widely reported in *The Courier* throughout the year, further angered and frustrated the community. The ongoing loss of native vegetation is relentless which is why the community voted for a local 300 year old gum tree to be 2023 South Australian Tree of the Year. This was to highlight its significance and risk of its potential removal to make way for a new freeway interchange bridge at Mt Barker.

The community's connection to the natural environment is also evidenced by the growing numbers of people volunteering for tree planting days, bushcare activities, habitat building workshops, citizen science activities, and participation in Nature Festival events.

There are many nature reserves throughout the district which attract visitors and bush care volunteers eager to give back to the environment. However, these precious areas are deteriorating through overuse and in some cases because of illegal activities such as bike riding, horse riding, mountain climbing and dogs off leashes.

What is working well

- The community are becoming more informed and engaged about the importance of biodiversity through the creation of and participation in volunteer bush care groups (eg. Hills Biodiversity, Friends of Groups, etc), Council led initiatives and through social media and local news outlets. A local group under the banner of "Trees Please" has been caring for the natural environment and Hans Hysen's gardens at 'The Cedars' for more than 20 years, as well as maintaining paths and controlling weeds in the riparian zones of many local creeks in Hahndorf.
- Residents and environmental groups are speaking out against the threats to and the loss of biodiversity through increased interaction with Council staff, submissions to local planning development applications (where public notification occurs) and state government reviews, and through letters to the local newspaper (*The Courier*).
- Mount Barker District Council supports several initiatives including environmental volunteer programs, environmental workshops/information sessions, and through the provision of advice to residents on how they can support biodiversity. The Council also promotes planting native and indigenous plants and supports local environmental groups through grant funding and collaborative initiatives with the community nursery. The Council has also recently appointed two dedicated Biodiversity Officers.
- Groups such as Second Nature Conservancy (formerly Goolwa to Wellington Local Action Planning Association) support landowners and provide expertise and volunteer support for

revegetation work and citizen science projects (eg. 1 Million Turtles, 'Mozzie Monitors', the Microbat Count, FrogWatch, BugWatch, Insect Investigators, Koala Count, Bird Count).

- The community led Bandicoot Superhighway Project seeks to reduce the extinction risk of the endangered southern brown bandicoot in the Mount Lofty Ranges, South Australia. This has been the result of a partnership between the Hills and Fleurieu Landscape Board, the Sturt Upper Reaches Landcare Group (SURLG) and the Foundation for National Parks & Wildlife. Unfortunately, these types of projects are rare.

What needs to change

- The introduction of tighter regulations and control which will effectively protect, conserve, and restore biodiversity. This includes a process of better reporting and follow up, accountability and a significant increase in penalties for offenders to bring South Australia in line with fines in Qld and NSW for environmental damage. Setting clear objectives and measuring outcomes.
- The Act must stipulate 'red lines' that can not to be crossed, such as no clearing of any critically endangered ecological communities or critical habitat for threatened species.
- A mindset change is required from decision makers and developers. Currently environmental degradation is seen as a normal and inevitable consequence of human activity. This needs to change. Decision-makers must be required to address direct, indirect, and cumulative threats that undermine the objectives of a new Act.
- It is important that baselines be set realistically, if not from European settlement (when the real damage began) then no later than the 1950s/1960s. From this time settlement became more dense and bad planning decisions were made which have caused major damage to our natural environment (eg. the removal of sand dunes which protected the coast).
- A well-resourced, independent 'umpire', operating at arm's length from government should be considered. This umpire will need powers to prevent activities and developments deemed too harmful for biodiversity which have a disproportionate negative impact on biodiversity and habitat loss.
- Better resourcing across all levels of government is required to ensure biodiversity is protected.
- Land clearing including removal of roadside native vegetation needs to stop immediately.
- Introduce meaningful consultation and input from the community, environmental groups, and bush care practitioners.
- Provide better protection to areas of high biodiversity value, including conservation and recreation reserves and roadside native vegetation.
- Creation and protection of sufficient and connected habitat, and opportunities or incentives to create it if it doesn't currently exist.
- Councils need funding assistance to enable employment of qualified conservation consultants and trained field staff rather than the use of mowing/spraying contractors who frequently cause long term and irreversible damage.
- Councils, CFS and MFS need to work together with DEW, Landscape Boards and Land Care groups to ensure integrated land management which increases biodiversity and protects our unique flora and fauna.
- Councils need to have the relevant powers under the Act to ensure they can properly manage the environmental assets under their responsibility and to ensure developers do not destroy remnant vegetation. For example, Mt Barker District Council has a detailed

Biodiversity Plan but are not resourced sufficiently to implement actions in a timely manner. They also have limited powers under the Planning & Design Code which often over-rides local concerns about biodiversity loss.

- In order for there to be meaningful outcomes, the Biodiversity Act must have precedence over all other related Acts and Regulations (including the Planning & Design Code) that currently impact on environment and biodiversity.
- Establish community reference groups that can work with all levels of government.
- Managing climate change and biodiversity loss are not mutually exclusive. It is possible to implement strategies that benefit both at the same time. Strict policies need to be implemented for a proactive integrated land management approach.
- The building industry must adopt sustainable development practices. The more 'sustainable' a building, the less energy it consumes and thus the less greenhouse gas emissions generated. Sustainable buildings work with, not against the environment. Sustainable development is that which consumes natural resources only at the rate at which they can be replaced, or a substitute found and creates waste at a rate no greater than it can be assimilated without harm to the environment.
- We must address the issue of what a sustainable population looks like and involve all stakeholders including ecologists, scientists, and conservationists. Land and water are finite resources with no equal substitute. Yet this discussion remains absent with emphasis on listening only to groups with a vested interest in growing the population such as the Housing Industry and developer representatives.

Addressing Topics 1-10

Topic 1. Biodiversity and South Australia's First Nations people

A new Act could establish a framework that enables First Nations peoples' perspectives to be heard and appropriately incorporated into decision-making about biodiversity where First Nations peoples wish for this to occur.

MBDRA Response:
Agree.
It is widely recognised that First Nations People live and act in the cultural belief that they 'belong to country' rather than the white European view of land ownership and perceived rights to take whatever benefit can be derived from the land for personal or collective gain.
However, how will First Nations peoples' perspectives be meaningfully incorporated into decision making given the restrictions in the existing Planning & Design Code and the intention of the Greater Adelaide Regional Plan (GARP) to continue urban sprawl and greenfields development?

Topic 2. Avoiding impacts

Matters for Consideration

1. The Act could seek to prioritise avoidance and minimisation of impacts to biodiversity and make it clear that any negative impacts to biodiversity are the last resort.

MBDRA Response:
Agree. This should be applicable to all developments from individual, commercial to government bodies. There should be no exemptions.

2. The Act could provide for a framework that includes clear guidance on the requirements to avoid and minimise impacts to biodiversity.

MBDRA Response:
Agree. However, who will set this framework and guidelines? Who will have input into the development of these? It is pointless if it favours development over conservation. The current state Planning & Design Code and Native Vegetation Act regularly favours the removal of trees and native vegetation over conservation.
There have been development applications in the Mt Barker district where developers have indicated they have 'tried' to avoid/minimise impacts to biodiversity, but it is not clear to what extent they have tried as this is not open to public scrutiny. How strong will the Act be in holding developers to prioritising avoidance?

Offsets

Funding for nature restoration should not be contingent on the destruction of nature elsewhere. The MBDRA prefer that offsets are not in the equation at all as this is often seen as an easy alternative for developers to choose.

Offsets generally do not deliver on their promise and are not enforced. The monetary amount never equates to the true value of biodiversity lost and revegetation often occurs in locations far away from the original area impacted.

Therefore, if offsets remain, they should meet the following requirements: be appropriately costed to reflect the true value of the loss (as assessed by independent experts) and be effectively enforced with an appropriately resourced Environment Protection Authority or similar body to have oversight of restoration efforts.

3. The Act could require evidence is provided justifying how avoidance and minimisation have first been addressed as per the mitigation hierarchy.

MBDRA Response:
Agree. This information should be publicly accessible.

4. The Act could make it clear that any action taken having impacts to biodiversity must leave biodiversity in a measurably better state than it was before.

MBDRA Response:
Agree. However, how is this possible and achievable? Does this mean that existing biodiversity is carefully 'scooped up', temporarily relocated and then returned to an even better state then before? Who will set the standards by which to measure this by? Who will do the judging? What will their qualifications be?

In many cases little to no effort is made to care for biodiversity during development. In many of the housing developments and road construction sites across Mt Barker hollow bearing gum trees are being cut without any care to saving and relocating wildlife. Unfortunately, in some cases it is not even possible to relocate wildlife due to the extent of the clearing.

The proximity of development and lack of wildlife corridors is causing wildlife to be displaced, injured, or killed. Often, displaced wildlife has no adjacent space to move into and is thus annihilated in the belief that the species will be found 'somewhere else'. This has proved as false a belief as earlier generations habit of 'throwing away' what was no longer needed.

"Governments need to be creating corridors through our cities so wildlife can move through the greenery and have access to the water they need. We need good planning so to ensure we can all co-exist," *Critical' way Australian cities must change for wildlife survival* by Michael Dahlstrom https://au-news-yahoo-com.cdn.ampproject.org/c/s/au.news.yahoo.com/amphtml/critical-way-australian-cities-must-change-wildlife-survival-205410574.html accessed 5/1/2024

In addition to wildlife corridors, we must implement overpasses over major highways to enable wildlife to cross. Exemplars already exist in other Australian states and overseas. South Australia is the only state where ladders are placed in the SE Freeway median strip between multiple lanes of traffic which koalas are expected to navigate. Not surprisingly, dead koalas are found every week

on the SE Freeway. Is this the example the Government seeks to set for wildlife protection in South Australia? Not so long-ago the State Government proposed to spend millions of dollars on a "Koala Park" at Cleland with the express intention of attracting Chinese visitors to the Adelaide Hills.

Topic 3. Transparent decision making

Matters for Consideration

5. The Act could require government maintain a public register to ensure decisions made that impact biodiversity are disclosed.

MBDRA Response:
Agree, as this goes to the concept of transparency. However, who will be making these decisions, and will the process be independent of government and developers?

As it is agreed that biodiversity impacts everyone, public consultation should occur on all matters where biodiversity is impacted. The community should be able to have input and inform those decisions through a meaningful open and transparent consultation process. The existing Planning Development and Infrastructure (PDI) Act and the Planning & Design Code exclude many developments from public consultation. This effectively means the community have no say in the loss of biodiversity.

A public register must show all decisions made and the rationale for them. The government needs to lead on best practice by encouraging ecologically sustainable development (ESD) at all levels. To support a PDI Act and a Planning & Design Code which does not facilitate ESD makes a mockery of any attempt at a Biodiversity Act.

6. The Act could require mandatory reporting so that impacts to biodiversity and actions taken to repair biodiversity are fully disclosed.

MBDRA Response:
Agree. This information should be publicly available.
This process needs clearly identified deadlines for actions to be completed by and rationales if those actions are not achieved. Substantial penalties or other consequences should be enforced if restoration work is not achieved. If this is not properly enforced, then it just becomes a bureaucratic reporting exercise with no meaningful outcomes.

The community would identify more with their local environment (as in the example set by First Nations People) if people were empowered to learn about and care for their local biodiversity and take pride in protecting habitat. At present there is little 'naming and shaming' of environmental vandalism offenders and frequently too little acclaim for those doing the right thing.

7. The Act could incorporate a clear definition of Ecologically Sustainable Development and ensure a process is created so that application of the ESD principles is required in the context of decision-

making about biodiversity.

MBDRA Response:
Agree.
All development should attain to a high standard of ESD. For example, housing in Germany and many other European countries is far superior in design and use of low carbon technologies.

Topic 4. Threats to biodiversity

Matters for Consideration

8. The Act could provide for a framework for the identification of threats to biodiversity.

MBDRA Response:
Agree.

This should include current and future threats and the ability to add more as they arise.

The biggest threat to biodiversity is human population growth, yet the repeated warning by Australian and international scientists over recent decades has been ignored by all levels of government. In the 2023 State of the Climate Report "Entering uncharted territory" by William J. Ripple *et al* published in *Bioscience* on 24 October – scientists have warned that life on Earth is under siege. The authors document a number of 'tipping points' arriving sooner than expected and for the first time in these annual reports call for 'stabilisation and reduction of human numbers'. This is in direct contrast with State and Federal Governments' economic incentives, all based on higher birth rates and imported population growth. Perpetual growth in a finite world is not only impossible but will subject all species to appalling conditions before the final collapse (Ref. "Collapse: How Societies Choose to Fail or Succeed" Jared Diamond (2011).)

It is noteworthy that the most recent newsletters of both Sustainable Population Australia (SPA 153, 11/2023) and Economic Reform Australia (ERA, Vol 16, Jan-Feb 2024) feature major articles calling for stabilisation and decrease of human population (Ripple et al 2023) and the acute need for carefully planned sustainable development ('What is Sustainable Development?' Mark Diesendorf, 2024 https://sustainablecivilisation.com).

The population of Mount Barker has trebled since the 1980s, from 12,000 to over 40,000 with the area expected to support much more by 2040. This is unsustainable – economically, socially and environmentally. The local council's development plan (now replaced by the "State Planning & Design Code") envisaged blocks smaller than 400msq within the town centre and larger allotments towards the town boundary to protect most trees, built heritage and retain the rural character of Mount Barker. This is now under destruction by virtue of the Planning & Design Code and rezoning by government DPA – opposed by Council and community, yet those voices were ignored. Needless to say, there has been zero consideration for biodiversity which has been destroyed or displaced (if it managed to survive).

How can a Biodiversity Act achieve positive outcomes and flora and fauna protection when there is no effective protection under the existing PDI Act and Planning & Design Code?

Despite the concerted efforts of many small conservation and land care groups, the struggle to halt biodiversity loss is failing on a grand scale due to lack of government funding and lack of legislation designed to protect natural environment and halt biodiversity loss. An excellent example of legislation which fails to protect native vegetation and ensures its removal is 'The Significant and Regulated Tree legislation of 2011'. The interests of developers and the housing industry sector over-ride environmental protection and cannot even save pre-settlement 300 year old native trees. Even metropolitan street trees are now at risk due to the '20m rule' where building insurance is denied or voided if large trees are within 20 metres of the building.

9. The Act could include statutory obligations for actions to address threats to biodiversity.

MBDRA Response:
Agree. The appropriate resourcing and powers are needed for the relevant government departments and Councils for these to be enforced.

Topic 5. Assessing the risk of extinction

Matters for Consideration

10. A scientific committee should be established to guide listing, assessment and review of extinction risk of biodiversity.

MBDRA Response:
Aree. Will committee members be independent of the government and developers and include representatives from qualified botanists, biologists, environmental organisations and those actively working in the field?

11. The Act could provide greater clarity on the types of native species that can be considered as threatened.

MBDRA Response:
Agree. However, this should not be limited to threatened species only. Surely the point of this exercise is to be proactive rather than reactive. Consideration must be given to those species close to becoming classed as threatened. Further, the evaluation of whole eco-systems needs to be considered, since the loss of a single species will impact other species and their food sources. For example, the environmental impact of removing dingoes from the landscape is visible from space. It is worth noting that the dingo is currently being reintroduced into cattle country in Queensland and NSW. https://cosmoquest.org/x/2021/03/dingo-removal-leads-to-a-trophic-cascade-of-ecosystem-issues/

A mindset fixed just on threatened species will overlook other species which will decline over time because of complacency. Remnant patches of native vegetation are becoming even smaller and more isolated from other patches amid urban sprawl so that breeding populations become unviable.

In addition, a management strategy is needed for those species (fauna) that are considered

'abundant' and are therefore not considered 'worthy' of being rescued and relocated from a development site. The government and its environmental agencies have, in recent years, reported on 'over-abundant native species' a relatively new term in our lexicon of environmental terminology. This has not occurred before in Australia (or in South Australia) because there was sufficient space for displaced native fauna to move into in the face of encroaching urban development or changing land use.

What strategies will be in place to ensure developers work with Councils and wildlife organisations to rescue and relocate displaced wildlife?

12. The Act could require the creation of a formal listing, assessment and review process that establishes clear pathways for nomination, consultation and review.

MBDRA Response:
Agree, and this process should allow for community groups, bushcare practitioners, Friends of Groups, etc to contribute.

13. The Act could adopt a streamlined process for list amendments to ensure lists remain current.

MBDRA Response:
Agree, however this needs appropriate resourcing.

14. The Act could ensure that programs implemented to address biodiversity decline are evaluated.

MBDRA Response:
Agree. Who will be implementing these programs? Who will be evaluating them and what will the consequences be if required actions are not carried out in a timely or appropriate way? Transparent reporting and accountability are essential.

15. Where a new extinction occurs, the Act could establish a requirement to examine and report on the causes and actions that contributed to it.

MBDRA Response:
Agree, however if the Act and underpinning legislative framework is working then an extinction should not occur! If an extinction does occur, then the system is obviously failing and it is the system that needs to be fixed. Who will be held accountable for an extinction loss?

It is ironic that many corporations today claim to have green credentials, but their very actions are at odds with the concept of sustainable development, environmental conservation and protection.

16. The Act could establish a framework to document measures to improve the status of biodiversity assessed as threatened.

MBDRA Response:
Agree however this needs to lead to action.

Topic 6. Biodiversity planning and reporting

Matters for Consideration

17. The Act could mandate a state-wide biodiversity plan or strategy where measurable targets are set and regularly reported on.

MBDRA Response:
Agree. However, this needs to be more than a high level, aspirational document. It needs a clear pathway to achieve its goals and able to over-ride existing restrictions in current legislation most notably the PDI Act and the Planning & Design Code.

Goals and targets in a biodiversity plan need to be measurable and time bound. Who will contribute to this plan, how will it be measured, and who is answerable to whom? It will require clear reporting on why targets have not been achieved, strategies required to achieve them and further actions in place to make this happen.

The objective should be overall biodiversity stabilisation and restoration, not just extinction avoidance, critical as that is!

18. The Act could require any state-wide plan or strategy to be regularly reviewed and updated.

MBDRA Response:
Agree, however monitoring and reporting on its own does not prevent biodiversity loss. It is imperative that this process does not become a bureaucratic form filling exercise. What is needed is action and the underlying legislative policy and framework to allow targets to be met. Meaningful community input into a review will allow for an open and transparent process.

Topic 7. The benefits of information

Matters for Consideration

19. The new Act could provide for a framework to enable the sharing of biodiversity information with the community and across all levels of government to assist in decision-making.

MBDRA Response:
Agree. This should include education programs and media campaigns to encourage people to value flora and fauna and build sustainable homes and biodiverse rich gardens.

20. The new Act could establish the Department for Environment and Water as the responsible government agency for the management of South Australia's biodiversity information.

MBDRA Response:
Agree, however the Department will need to be appropriately resourced to manage this effectively. Also, how would this impact the work of the Landscape Boards? How would they be kept in the loop and remain relevant?

21. The new Act could establish requirements for the submission of biodiversity data collected in South Australia to a central repository.

MBDRA Response:
Agree. This should be publicly accessible.

22. The new Act could direct the development of a policy that describes requirements for the collection, collation, interpretation and dissemination of biodiversity information.

MBDRA Response:
Agree. This needs to be properly resourced including employing staff who are appropriately trained/qualified in biodiversity nomenclature and future proofed with a succession plan in place.

Topic 8. Achieving 30 by 30

Matters for Consideration

23. The Act could consider broadening or creating schemes to further support the establishment and management of conservation areas on private and other land.

MBDRA Response:
Agree. However, how will this be achieved given 2030 is only six years away? We will need to move fast and come up with drastic measures including sweeping changes to the current system to reach this target.

This strategy should also include joining up adjacent land to create wildlife corridors. Much of this work currently sits with Councils and local environmental groups such as Hills Biodiversity and 'Second Nature Conservancy' (formerly Goolwa-Wellington LAP) working with limited resources and the goodwill of private landowners.

Housing estate developers should also be required to be a part of this scheme even if it means less land is allocated to housing.

24. The Act could seek to enable additional incentives, including the provision of financial and technical assistance, to landholders who have entered into formal agreements for conservation.

MBDRA Response:
Agree. This should include local Councils as some Councils (such as Mt Barker Council) manage large pockets of open/reserve land throughout their district (some of which is handed over to them from developers) and these are challenging to maintain on limited resources. Also, consideration should be given to including housing estate developers in this scheme as there are some who keep pockets of land in their estates with the intention of supporting biodiversity (eg. Newnham at Mt Barker).

Topic 9. Biodiversity – a shared responsibility

Matters for Consideration

25. The Act could be clear about the respective roles and responsibilities of the community by introducing a 'biodiversity duty of care', which makes the protection of biodiversity a continuous legal and social responsibility.

MBDRA Response:
Agree. However, 'community' needs to be clearly defined and include everyone such as developers, businesses, corporations, mining companies and government departments such as Department of Infrastructure and Transport and Department of Education.

Education plays an important role in helping the community value and want to protect our unique flora and fauna. Councils and Volunteer bush care groups should receive more support to help in this process. Similarly, landowners who have road reserves adjacent their properties could be educated on the importance of these areas and incentivised to protect them.

26. If the inclusion of a 'biodiversity duty of care' in the Act is supported, it could be tied to relevant administrative powers and to civil penalties.

MBDRA Response:
Agree.

27. The Act could include provisions so that guidelines and regulations can be made to ensure South Australians understand and comply with a 'biodiversity duty of care' obligation.

MBDRA Response:
Agree. This is needed now.

There are many examples of a lack of 'biodiversity duty of care' in Mt Barker from developers to individuals.

In the case of the Bluestone Housing development three wetlands were covered over. In 2011 a local botanist highlighted the existence of rare plants in this area, however this did nothing to prevent the land being covered in concrete.

Similarly, the existence of the rare Southern Bell Frog did not stop development occurring along the southern section of Fidler Lane, Wistow.

Local reserves that host the last remnant pieces of biodiversity (particularly Mt Barker Summit Conservation Reserve, Yantaringa Reserve, Totness Recreation Park and numerous road reserves) though respected and highly valued by many, are being substantially abused by a few. This includes illegal activities such as horse and bike riding, rock climbing and walking dogs off leash. These areas are difficult to police as they are relatively isolated. The Council erect signs and roll out education programs but there will always be individuals who choose to do the wrong thing. Further, it is very difficult to impossible to stop this activity and similarly to progress any penalties on the

perpetrators.

All these activities impact on the sensitive flora and fauna in the reserves. Better protection is needed for these areas of high biodiversity value as they are under serious threat of overuse and misuse.

In the United States a high percentage of the National Parks and Monuments are deliberately not accessible to the public to limit impacts on both flora and fauna and to encourage natural replenishment of all native species. This is a concept which has been little considered in Australia, with human residential development, mining and forestry advancing into every niche and ecosystem, regardless of its fragility, rareness, and value.

The MBDRA would like to see better protection of areas that are known for their high biodiversity value.

Topic 10. Consequences of doing the wrong thing

Matters for Consideration

28. The Act could seek to align sanctions and penalties for similar offences, having consideration where possible of levels imposed through other jurisdictions.

MBDRA Response:
Agree. Penalties need to be increased to at least align with those set in Queensland and NSW. Existing penalties are punitive and provide no disincentive to bad behaviour.
Sanctions and penalties must apply to all members of the community including developers, businesses, corporations, mining companies and government departments.

29. The Act could enable suitable non-government parties to commence proceedings for offences under appropriate circumstances.

MBDRA Response:
Agree. However, it's important to keep in mind it is currently expensive (therefore prohibitive) for Councils, individuals and not for profit organisations to engage in legal proceedings. These groups would need outside financial support to commence legal proceedings.

30. The Act could apply a contemporary risk based approach to the types of enforcement actions available such as compliance and remediation orders, civil remedies and other alternative penalties.

MBDRA Response:
Agreed, however penalties need to be high to dissuade future offenders.

The MBDRA would like to see:

- Significant penalties for the illegal clearance of native vegetation (to act as a disincentive), including possible measures beyond financial penalties.
- Sufficient resourcing within the Department to enable the effective monitoring, compliance and enforcement of the Act.
- Increased resourcing to local Councils to meet the objectives of their Biodiversity Plans
- Increased power to Councils to apply fines/penalties

Conversely, those individuals, companies, developers, etc who do the right thing and protect biodiversity should be openly applauded and acknowledged for what they have done. They should be shown as exemplars.

Conclusion

The imperative for action is now. The MBDRA supports the development of a new Biodiversity Act for South Australia on the condition that it operates with the appropriate authority, power and resources to ensure meaningful outcomes for the environment. For it to be effective it will need to be underpinned by a clear pathway with which to achieve its goals. This is currently not possible under existing acts and regulations (including the PDI Act and the Planning & Design Code) which do not currently protect biodiversity.

We accept that development is inevitable however it should be done sensitively by either avoiding environmental damage or incorporating as much of the existing environment as possible into developments. Currently the natural environment is often treated as an afterthought and is always the poor cousin to every other portfolio. A paradigm shift in thinking is required if we are to see any meaningful change.

The MBDRA thanks the Department for Environment and Water for the opportunity to comment in detail on the potential for a new Biodiversity Act for South Australia and applauds the concept. We cannot stress strongly enough that this Act needs to be pre-eminent in our State legislation in order to be effective.

Appendix A: Mount Barker – a Case study in Biodiversity loss

The Mount Lofty Ranges is under serious threat of continuing biodiversity loss due to changing land use. The southern Mount Lofty Ranges is one of six major biodiversity hotspots 'currently under threat from a combination of habitat fragmentation, invasive species, altered fire regimes and climate change" (Prof Andy Lowe, April 11, 2016).

A study, sponsored by the South Australian Government Department of Environment, Water and Natural Resources (DEWNR) and the Terrestrial Ecosystem Research Network (TERN), found that 'the southern Mount Lofty Ranges contained a high proportion of unique species and overall diversity was high, but has been subjected to the highest levels of disturbance since European settlement.' https://biodiversityrevolution.wordpress.com/2016/04/11/biodiversity-hotspots-in-south-australia/

Housing Developments

In 2010 the State Government rezoned 1300ha of land for housing (1100ha) and employment (200ha) in the Mt Barker district, largely in Mt Barker but also in Nairne and Littlehampton. Since that time, due to the massive housing developments across swathes of prime farming land and native vegetation, the loss of biodiversity and landscape amenity has been immense and indisputable. Thousands of trees and native vegetation species have been destroyed to make way for housing development, roads, roundabouts, footpaths, and commercial development, having a devastating impact on biodiversity and all wildlife.

To make matters worse developers sought and gained State Government approval for 'no minimum size' allotments, which are now being created as 'townhouses' on 100msq lots with no set back front or rear, up to 50 in a row. There is no 'biodiversity' since even earthworms are removed, with the soil, from those sites. The residents of Mount Barker take no pride in the change of media title from "the 'Cream Bowl of the Adelaide Hills' to 'planning debacle of South Australia'.

As the Mt Barker district is generally former farmland, there is already very little remnant vegetation left, thus it is even more noticeable when such vegetation is removed. Most of the remnant native trees and native vegetation under threat are adjacent existing road networks (road verges), scattered throughout farmland that has been rezoned for housing and on private property. Several unsealed roads (Martins, Sims and Fidler Lane) have suffered considerable loss due to encroaching development. Two of the three roads have already suffered destruction of the majority of roadside vegetation, including 100 year old native Weeping She-Oaks (Allocasuarina verticillata) which provided a large percentage of the remaining wildlife refuge/habitat in the area.

Generally, developers, with few exceptions, are not inclined to incorporate remnant vegetation into the design of new residential estates. They prefer a clear-fell site as it is easier to work with and allows them to build more houses, often very close together. They then pay into an offset scheme rather than plant replacement trees. This means that some developments end up with very few trees, with aerial photos revealing a high intensity 'sea of roofs' resulting in suburbs experiencing higher temperatures and creation of an 'urban heat sink' which impacts a much greater area. Funds paid into the SEB (Significant Environmental Biodiversity) Offset Scheme do not

guarantee that any trees or revegetation will be replanted in the same area or even in the same town where trees were destroyed to make way for development or roads. This has had a direct impact on wildlife and biodiversity in general. In some areas large numbers of native marsupials have been displaced and are now spread across the few remaining broad acre farms and land holdings adjacent the new 'town boundary' created by the consortium of developers.

During site preparation topsoil is removed and sold to landscape companies leaving clay and concrete, resulting in a total loss of biodiversity. This is in direct contradiction of the high aspirations and goals of "Green Adelaide" and the State Government's claims to be protecting and conserving 'biodiversity'. Much of the new development in Mount Barker has minimal or zero set back front or rear of the allotment, with no space for even a bush, let alone a tree.

In addition, there are many small creeks and tributaries throughout these areas which are either adjacent to or run through some of these properties. The total removal of adjacent vegetation impacts on the health of those creeks through the accumulation of silt and sand which washes into them from nearby development areas. In many developments, winter creeks have been turned into mere drains with geo-tex bags and cement so that they no longer support frogs and other wildlife. Former dams have been bulldozed and built over, regardless of whether they were 'spring fed', so that water rises and tries to find a new path through housing lots. In Bluestone Estate, across several development 'stages' no less than three wetlands have been quite literally covered in concrete and built development. No Environmental Impact Assessment required! Thousands of frogs (several species) and other aquatic life (all 'biodiversity') didn't matter!

The Native Vegetation Council (NVC) has also approved applications that have resulted in a 'concentration of clearance around Mt Barker' to make way for residential developments and for road and infrastructure upgrades. Ironically, the NVC manages the fund to 'restore native woodland habitats lost because of residential development and infrastructure upgrades. (Source: *Adelaide Hills Herald*, Friday November 11, 2022, p2). However commendable this is, it wouldn't be required if the vegetation was initially protected and does not resolve the issue of displaced wildlife because of vegetation lost. Nature corridors for wildlife are effectively lost.

Native vegetation can also be incorrectly identified as 'saplings' when, they are already at their full height and width. Such misidentified trees may have a small circumference at maturity and would thus fall outside of the definition of 'regulated tree'. Further, smaller vegetation is often not valued, yet it is this vegetation that supports much of the local biodiversity – small birds, butterflies, bees, insects, frogs, reptiles, etc. These fauna now face local extinction by the careless removal of such habitat. Brown Stringybark and Bluegum saplings are also where Ringtail Possums (now in decline in the Mount Lofty Ranges) make their dreys and without stands of young saplings these much smaller possums cannot out-compete the much bigger Brushtail Possums and a huge range of birds, cockatoos and bees for scarce tree hollows. That wildlife is under pressure and is trapped between encroaching residential development and the SE Freeway. Animals and birds are all too frequently becoming 'road-kill' and impacts on tortoises/turtles attempting to reach higher ground to nest is becoming an all too regular sickening sight.

Roads

Developers are increasingly encroaching onto roadsides due to the intensity of the housing developments. Roadside vegetation is being removed as housing estates are built as close as possible to the boundaries. This puts pressure on the existing road networks, which are required to accommodate cars, cyclists, and pedestrians. Examples of roads in the district which have experienced significant roadside vegetation loss are Martins and Sims Roads and Fidler Lane.

The Department of Infrastructure and Transport (DIT) is responsible for the maintenance of the main arterial roads across the district. These roads are under pressure due to the increased traffic as a direct result of the exponential residential development. Often the fix is seen to be road widening and the installation of roundabouts. This often results in the removal of many trees and roadside vegetation without any community consultation. This leaves the community upset and frustrated at the lack of engagement and at the loss of the very reason the Hills are valued.

We acknowledge that getting the balance is difficult as development is inevitable, but the concern is that DIT do not seek meaningful community feedback. Approvals through the NVC seem inevitable and no effort is being made to seek alternative options.

For example, on Long Valley Road, between Wistow and Strathalbyn, over one thousand mature roadside eucalypts were removed by DIT to permit a couple of passing lanes. This was in response to road fatalities, not caused by trees, but by driver behaviour. When are we going to seriously address driver behaviour rather than adopting 'easier' options of continuous road widening. The biodiversity loss along this stretch is immense and permanent. Had environmental and biodiversity considerations been prioritised, a different road traffic safety strategy would have emerged.

The MBDRA prepared a submission to DIT entitled "A Strategy for Native Vegetation Replacement" on this very problem. (Appendix B)

The few remaining reserves across the district with remnant native vegetation are under enormous pressure from visitor numbers and from the impact of adjacent residential and commercial development.

There is also a growing number of animals killed daily on local and arterial roads and the Southeastern Freeway. Given the government's investment in tourism, of which the environment is a big part, it is ironic that still nothing has been done about avoiding the daily wildlife carnage. All other major cities with wildlife in its hinterland have koala protection fencing for 50-100km (e.g. Newcastle and Mackay) and overhead crossovers. Yet, despite the call for these over the years from many different groups and individuals, the Government has yet to respond.

How will the introduction of a Biodiversity Act mitigate the loss of flora and fauna as we have evidenced at Mount Barker? While this Act is urgently needed it must be an overlay which takes precedence over other State legislation to have any real purpose.

Road traffic increases exponentially with the ever growing population, which exacerbates biodiversity loss and hardens the hearts of many residents, who assume from the number of 'road kill' that native wildlife populations must be 'over abundant' rather than in decline. Yet in the State Government's most recent plans put out for public consultation, the Greater Adelaide

Regional Plan (GARP, 2023) and the State 20 Year Infrastructure Plan (2023) there is no mention of future rail to take pressure off our roads while increasing the State's population by up to 800,000. How is this in any way conducive to halting biodiversity loss and how will a new Biodiversity Act overcome these major challenges?

Our Association has been at the forefront in calling for the restoration of passenger rail services to Mount Barker and the Adelaide Hills, to alleviate the demand for new, wider and upgraded roads as the only response to the increase in Hills populations through extensive new housing development. Our full proposal can be found here: https://www.mtbarkeranddistrictresidents.org.au/index.php?page=guestbook-2. Rather than having to destroy significant vegetation for roadworks, the necessary trackwork already exists and carries only freight. Just a few kilometres, from Mount Barker Junction to Mount Barker Station is in need of some restoration work. Passenger Rail services would therefore represent a positive win for Biodiversity through habitat destruction avoidance.

Appendix B: A Strategy for Native Vegetation Replacement

13 March 2023
Minister Tom Koutsantonis MP
Cc Mr Evan Knapp
GPO Box 1533 Adelaide SA 5001
Minister.Koutsantonis@sa.gov.au

Dear Minister Koutsantonis

Over the past year, the Mount Barker & District Residents' Association (MBDRA) has raised the issue of tree loss on many occasions as development of the rezoned land at Mount Barker has proceeded. We anticipate that this erosion of the remnant natural vegetation and wildlife habitat will continue due to the pressure of financially optimised development, even with current planning guidelines in place. In order to shift from a purely reactive situation regarding tree and habitat loss, our representatives at a recent meeting with DIT suggested a possible alternative proactive course. Attached is a broad outline of that strategy, as requested by Evan Knapp at that meeting.
We much appreciate your interest in this matter, for better environmental outcomes and better consideration of wider community concerns, in your provision of infrastructure needs.

Historical Legacy
The original surveys of the Adelaide Hills have left us with a fine network of rural roads, well suited to their time – narrowish (one chain) road reserves that were quite sufficient for the narrow road pavements necessary to allow mostly slow moving and infrequent wagons and travellers to pass each other. On either side of the road reserve, trees and scrub on private landholdings was usually cleared for agriculture and grazing right to the property boundary. Trees on the strip between the pavement and those boundaries were left, both for reasons of economy, but also to provide shade for travellers. New growth germinated in this strip too, over 150 years, to form random avenues of now substantial trees. Also, for low speed travel (10 kph), sharp corners following boundary surveys were quite acceptable. With so much land cleared of natural vegetation, the roadside vegetation became an essential food source, and habitat, for native wildlife. Additionally, the hollows in these old, remnant trees provide essential nesting sites for birds and animals.

The Present, and Future
While the old rural roads provide the delightful charm of a leisurely drive through The Adelaide Hills, the increase in residents in rural areas, but more particularly the expansion of housing in villages and towns has added irresistible pressure on the road network. Speed, carriageway width for passing trucks, improved alignment and sight lines, the impact risk of trees immediately adjacent to the roadway and the sheer increase in traffic flows (particularly commuter flows), all demand upgrading of significant parts the road network and will continue to do so.

Planning
Ten years ago, 1300Ha around Mount Barker were rezoned from Rural to Residential and Industrial. The expansion of Mount Barker has been dramatic and is set to continue. With the rezoning, a notional master plan was produced indicating the new and upgraded roads necessary to support the growing population. Only now are some of these upgrades being undertaken. More

– including upgrades of earlier upgrades – are to be expected. But that's a ten year lag from identification to implementation.
It is suggested that there should be a two-stage policy to compensate for tree loss due to roadwork upgrades, to take advantage of this planning time lag in the first instance, and then address the particular situation on any site at the later immediate detailed design stage.

Strategic Provisions
The long-term aim is to establish compensatory habitat away from the roadsides, by implementing or enhancing wildlife corridors within the adjacent landscape. This could/should be done in conjunction with Landscape SA and Local Council overlays. When a potential road upgrade is identified in the early strategic planning stage, an assessment would be made of the possible wildlife habitat and tree loss. While all the existing would remain untouched at this stage, a new habitat and 'forest' reserve would be established, in the immediate area if possible, but away from roadway hazards, in accordance with the wildlife planning overlays. The new plantings could be a mix of tube-stock and advanced trees, with appropriate understorey for smaller birds and land animals. There might be a, say, 5 new to 1 old replacement ratio based on trunk circumference. These new plantings would be cared for and grown on, resulting in a more mature compensatory habitat being prepared for if or when roadside trees actually need be removed.
Alternatively, blocks of existing native vegetation could be acquired and given public reserve status (as a minimum), if these areas were under threat of clearing.

Immediate Provisions
During the final planning and design stages, due consideration should be given to minimising tree removals, notwithstanding the earlier provisional plantings. This is particularly the case with iconic, centuries-old specimens, which take many human lifetimes to replace. It would also be required that additional planting be undertaken prior to construction commencing, as a direct compensation for those trees that actually need be removed, along the same lines as outlined above. Relocation of wildlife may be possible into the earlier ten-year-old plantings, though it is recognised that this is not a simple process. At least some habitat elements may be transferable, or their equivalent provided. After construction work is completed on the site, it would be expected that well-designed landscaping would be undertaken and maintained.

Conclusion
While the primary intent of such a scheme as outlined is to compensate, hopefully nett positively, for the inevitable loss of native vegetation and habitat along roadsides, it would provide DIT with a policy that could avoid the disputation arising from what would otherwise be a loss to the environment and the community. Though some may benefit from the improved road conditions, this would be at the expense of the wider community in its loss of natural amenity. It is in considering the wider community that this proposal would need to be shared across the various branches of Government, and while there would be some costs involved, these too would be indirect compensation for those who may not benefit directly from the roadworks, through the maintenance and enhancement of their environment.

Kind regards
Douglas McCarty
Douglas McCarty
Chairperson