Submission to Discussion Paper for a new Biodiversity Act

Friday 1 March 2024

Biodiversity Coordination Unit
Department for Environment and Water

Emailed to biodiversityact@sa.gov.au

To whom it may concern,

The South Australian Nature Alliance (SANA) is pleased to provide this submission in response to the Department for Environment and Water's Discussion Paper regarding the development of a new Biodiversity Act for South Australia.

About SA Nature Alliance

SANA is a collaboration between nature conservation organisations that each work to protect and restore nature in South Australia. Our purpose is to achieve greater results for nature, including increased investment in natural capital, a community better connected to nature, and a stronger conservation sector in South Australia. We provide valuable policy advice and advocacy for increased innovation and investment from both the public and private sectors so that the urgent work to secure the future of nature is supported at the scale required.

SANA is on the front line of tackling the biodiversity crisis

As the Discussion Paper points out, Australia has a particularly poor record for species' extinctions and South Australia has one of the highest extinction rates within Australia.

SANA understands better than most the scale of the biodiversity crisis, as our members are on its frontline. We dig holes to plant trees for habitat restoration, hand weed around plants threatened with extinction, manage reserves for conservation by maintaining fences and tackling invasive species, undertake research on biodiversity to improve our knowledge, advocate for the expansion of land and sea protected areas, dam drains to bring water back to parched wetlands, defend biodiversity from destructive activities, connect South Australians to nature by making opportunities available to see and appreciate our wonderful biodiversity and support *ex-situ* populations species so close to the brink that their survival in the wild is not guaranteed.

Despite the critical importance of this work and the benefit it brings to the broader community, much of SANA's work is currently supported by insecure government funding, philanthropic gifts and volunteer effort.

Following the careful stewardship of South Australia's natural environment by Aboriginal people for at least 45,000 years,[1] the dramatic loss of biodiversity in South Australia is a result of relatively recent past actions. SANA acknowledges that those who cleared the bushland, dammed the rivers and drained the wetlands did not do so out of malice. Those who came to South Australia at the time of colonisation (and afterwards) did not deliberately aim to destroy biodiversity in most cases, rather, the aim was to make land and waterways 'productive', to provide for families and grow the South Australian economy in the way they knew how.

However, as Maya Angelou says:

> "Do the best you can until you know better. Then when you know better, do better."

We now know better – we now know that we cannot endlessly destroy and modify the natural world. With 95% of the Earth's terrestrial surface impacted by humans[2] and an average decline of almost 70% of species' populations since 1970[3], the time has well and truly arrived for a step-change in our relationship with biodiversity, including through our laws.

Therefore, SANA **strongly supports the development of a new Biodiversity Act** for South Australia as overarching legislation to secure nature and biodiversity, conserve and restore ecosystems, better protect endangered species, populations and ecological communities and critical habitats and prioritise the protection of biodiversity, as described in the Discussion Paper.

However, SANA is concerned that an Act developed in line with the topic components included in the Discussion Paper would not be a step-change for South Australia's biodiversity.

The framework put forward in the Discussion Paper is consistent with legal approaches currently taken to biodiversity protection and recovery nationally (primarily through the *Environment Protection and Biodiversity Conservation Act 1999*, EPBC Act) and in other states.

The available evidence suggests these approaches have not been successful in reversing biodiversity decline. For example, The Samuel Review called for a complete overhaul of the national EPBC Act, including all new national environmental standards and policy changes and now the EPBC Act is currently being re-written4 due to failings with its provisions and their implementation, and a recent review of the NSW *Biodiversity Conservation Act 2016* identified significant failings and has called for 'substantial recrafting'.[5] It makes no sense to base a new Act for South Australia on failed legislation. We need to heed the reform and policy advice and take the opportunity to be a leading state.

SANA believes that the Malinauskas Government has a **unique opportunity to lead the nation** on this critical issue by creating a truly ground-breaking piece of legislation that formally prioritises the need for a healthy, biodiverse environment in South Australia.

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[1] https://www.agd.sa.gov.au/aboriginal-affairs-and-reconciliation/aboriginal-heritage/about-aboriginal-heritage-in-south-australia#:~:text=South%20Australia%20is%20archaeologically%20rich,estimated%2045%2C000%20years%20before%20present.
[2] https://www.visualcapitalist.com/human-impact-on-the-earths-surface/#:~:text=As%20it%20turns%20out%2C%20nearly,multiple%20forms%20of%20human%20impact.
[3] https://livingplanet.panda.org/en-US/#:~:text=The%20Living%20Planet%20Index%20(LPI,analyzed%20almost%2032%2C000%20species%20populations.
[4] https://www.dcceew.gov.au/environment/epbc/epbc-act-reform
[5] https://www.parliament.nsw.gov.au/tp/files/186428/Independent%20Review%20of%20the%20Biodiversity%20Conservation%20Act%202016-Final.pdf

To that end, further consideration needs to be given to the following issues:

1. **Resourcing** for the new Act to implement its provisions – arguably a lack of resourcing (and political will) has resulted in many of the failings of the EPBC Act. This new Act will require substantial State Government resourcing and this must form part of your commitment to it. Two issues of particular concern to SANA members in this regard are:

    a. The establishment of an **independent statutory conservation trust** that could facilitate the purchase of land for conservation purposes, including with partners such as the Federal Government, private sector and environmental not-for-profits. This trust should form part of a broader resourcing commitment to the new Biodiversity Act.

    b. The relationship of this new Act to established and emerging **market mechanisms** for biodiversity protection and recovery. As stated earlier, though much of SANA's work is supported through insecure government funding, philanthropic gifts and volunteer effort, several SANA members are engaged with, and/or are exploring, markets mechanisms for supporting nature protection and recovery. At a minimum, the new Biodiversity Act will need to be complimentary to existing approaches, including those being established following the recent passage of the *Nature Repair Market Act 2023.*

2. **Large-scale restoration** – key SANA members are engaged with critical ecological restoration work, in many cases aiming to reconstruct habitat at scale. The new Act should provide a target, framework and funding for this important work, particularly where it is needed to achieve the national commitment to 30% of habitat types protected by 2030.[6]

3. **Compliance –** SANA believes the community's ability to enforce the law is critical given the influence of vested interests and strongly supports the new legislation allowing third parties to bring proceedings in the public interest, including merits review.

SANA supports the individual submissions made by its member organisations and looks forward to working further with the Department for Environment, and the Malinauskas Government, on developing this important legislation.

Yours sincerely,



Kirsty Bevan
Chair, SA Nature Alliance

[6] https://www.dcceew.gov.au/environment/biodiversity/international/un-convention-biological-diversity/global-biodiversity-framework