

Submission to South Australia's Draft Biodiversity Bill

Introduction

Thank you for the opportunity to make a submission to the proposed Biodiversity Bill

There are some good improvements to the Bill including expanding the definitions of native plants and protected animals, strengthening native plant laws that apply to planted native vegetation more than 20 years old, establishment of a biodiversity register, tougher penalties for breaches, and improved transparency in decision making.

I also support the submission of the peak body for the environment in South Australia, the Conservation Council of SA.

However, the laws protecting our biodiversity need to be stronger to prevent the further and ongoing loss of biodiversity.

Following are the Key points I would like to make:

Ministerial power

Appointment to and composition of the Biodiversity Council and Native Plant Clearance Assessment Committee (NPCAC) must be open, transparent and representative of key stakeholders. Members should not be appointed by the Minister as this could lead to politicization of appointments.

The current process of a Minister selecting some members of the Native Vegetation Council from a list of nominees provided by various relevant peak bodies provides a safeguard against the risk of the over-politicization of appointments and this approach should be retained for both the Biodiversity Council and NPCAC. The presence of a nominee from the peak environment body, the Conservation Council of SA, on these important committees would provide a critical link to the eNGO sector regarding the function of this important Act.

The Biodiversity Council should also be responsible for developing the policy for "offsets" given the importance of the formula for payments which would then be approved by the Minister, rather than this being a direct Ministerial responsibility.

The Bill

Not only does the Bill need to be stronger in its protection of biodiversity but must have primacy over other legislation such as the Planning, Development and Infrastructure Act 2016. Otherwise, large scale development will continue to be given preference over protecting biodiversity.

Implementation

The Bill will need to be appropriately resourced for its implementation and associated actions. This means relevant staffing as well as proper funding for large scale restoration projects.

National parks

National parks are often the last stronghold of remnant and significant vegetation including endangered flora and fauna. Mining should not be allowed at all in these areas. National parks should be a 'no go' zone for any development, mining or agriculture venture. The reason these areas are national parks are predominantly because of their biodiversity. We have so little native vegetation left in the state, why can't these areas be fully protected from any invasive/destructive activity.

Definition for 'native plant' from the National Parks and Wildlife Act 1972, meaning any plant indigenous to Australia can be protected.

By adopting this definition, it will extend protection to all native species, some of which are invasive in South Australia. Also, consideration should be given to the impact on the local ecology of planting species from elsewhere. Local conservation efforts in reserves with high value remnant native vegetation may be adversely affected.

Significant Environmental Benefit (SEB) scheme and the Native Vegetation Act

SEBs

According to the Explanatory Guide

<https://yoursay.sa.gov.au/96921/widgets/455031/documents/301885> (p17): *"The Significant Environmental Benefit (SEB) scheme outlined in the NV Act remains largely unchanged. The Bill will require the development of a new biodiversity policy in relation to SEBs, which will provide an opportunity to review how the scheme should operate into the future. The Bill also clarifies that the NPCAC must be satisfied that an on-ground SEB is not possible before accepting payment in lieu of an SEB."*

The SEB scheme does not adequately and truly value biodiversity. How can you put a value on an entire ecosystem (above and below ground) and how can an entire ecosystem be 'replaced' or 'recreated' elsewhere?

The weightings/scores are inadequate, and do not reflect the true cost of native vegetation and the associated ecosystem below ground which supports it. An ecosystem which is likely irreplaceable.

In addition, as the payment is so low it provides no incentive for developers to maintain native vegetation in their development.

"The vegetation assessment methods are quantitative and are based on a range of attributes relating to the vegetation condition, location in the landscape and conservation values. This is intended to provide the vegetation with a relative biodiversity score. This allows for an assessment of the significance of the vegetation that is proposed to be cleared and enables a quantitative means of

determining the required SEB.” P7 https://cdn.environment.sa.gov.au/environment/docs/Native-Veg/SEB-Changes-1-Sep-24/Guide-for-a-Significant-Environmental-Benefit_1-Sept-2024.pdf

Either the SEB scheme needs a comprehensive review to better reflect the reality or it needs to be scrapped as it has too many flaws and just allows development to continue to be approved.

Pristine native vegetation and ecosystems can never be 100% replaced and this needs to be acknowledged and made off limits to development. There should be a limit or threshold at which no offset will be contemplated.

Native Vegetation Act

It is disappointing that The Bill will absorb the existing Native Vegetation Act which will remain pretty much the same. It is due to the weakness of the current Native Vegetation Act/Legislation that we are continually losing so much native vegetation across the Adelaide Hills and the state more generally. You just need to look at the Native Vegetation Council Consultation Outcomes to see all the native vegetation clearance that is approved <https://www.environment.sa.gov.au/topics/native-vegetation/consultations/consultation-outcomes>

I am disappointed that all the current exemptions from native vegetation clearance controls have been transferred across from the existing Native Vegetation Act, since the evidence suggests we are still losing native vegetation (i.e. biodiverse habitat) at an alarming rate in SA.

I have come across the Native Vegetation Legislation in many development applications across the Adelaide Hills. And providing the applicant meets a few requirements, in all the cases I have witnessed consent is granted to remove that vegetation. Yet this is often healthy vegetation providing valuable wildlife habitat. The applicant often claims it to be diseased or unsafe (providing questionable evidence/claims), while in reality it is just in the way of their development. There are not enough checks and balances in place on these applications to test applicant claims. The reality is that developers often don't want to incorporate or save native vegetation as this would mean reducing their development footprint and thus profit.

In most cases the Native Vegetation Council accept the developers/applicant's submission as 'gospel truth' rather than physically visiting the sites themselves or getting a truly independent assessor (as opposed to one who has been paid by the developer).

Community consultation on native vegetation clearance is 'welcomed' but the reality is problematic. There is no mechanism to set up an automated alert on the NVC site to be informed when a clearance application is out for community consultation. And when one is out for community consultation the community only has a limited time to provide feedback (often 1 month). Compare this to the length of time the developer has had to prepare their application along with expert reports (often multiple years). The system favours development approvals over rigorous assessment.

The Native Vegetation Legislation and associated process for community feedback is flawed and needs to be changed to better protect native vegetation and allow for proper community consultation.

Conclusion

Though the Bill in its current form has made some progress towards improving the protection of biodiversity, further amendments are needed to strengthen the laws to protect biodiversity. There must be guarantees that halt the decline of nature, fully protect remnant vegetation and support large scale restoration of our biodiversity.

Thank you for taking the time to consider my submission.

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