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From: Colin Wilson, President, Friends of Parks KI Western Districts

I would like to offer the following comments on behalf of Friends of Parks KI Western Districts (a volunteer group on Kangaroo Island currently with 37 financial members).

I am a retired environmental scientist with many years of experience working on biodiversity-related issues, mainly in the Northern Territory and South Australia, but also across Indonesia. I have worked on numerous environmental projects in fields as diverse as environmental impact assessment, biological control of insects and weeds, protected area weed and feral management, threatened species monitoring and assessment, marine biodiversity monitoring and environmental policy. I have authored numerous papers in refereed scientific journals. I own a 650 ha Heritage Agreement property on Kangaroo Island which is managed for conservation.

I welcome the opportunity to comment on the development of a new Biodiversity Act and I fully support this attempt to reverse the long-term decline in biodiversity across the State. To achieve this there must be a change in approach at the highest levels of government and industry so that environmental values are no longer subservient to 'development' imperatives.

Biodiversity underpins a strong economy

- It is encouraging that the Discussion Paper acknowledges, despite past efforts, that biodiversity in South Australia continues to decline and undertakes to reverse this situation.
- It may be crucial that we are viewed as a trusted and reliable partner by international investors, industry and the Australian Government, but the environment needs at least as much, if not more, certainty than investors and industry. Biodiversity lost now is lost forever, while industry and developers come and go and a bit less profit or extra cost to them now is always short term. **Industry and developers need certainty** that some things are absolutely off-limits and no amount of money, lawyers or political donations can change it. Otherwise they are always 'trying it on', banking on the fact that their almost limitless resources and influence are bound to ensure they get their way over troublesome little communities, individuals and NGOs. **Biodiversity needs certainty** that it will not be sold out to investors and developers with buckets of money, lawyers and political donations. When has a major development EVER been stopped by a concern over biodiversity loss? This must change, and the new Biodiversity Act is the place to do it.

A New Biodiversity Act

- The broad goals for the proposed new Biodiversity Act are appropriate and supported, but to be effective the conditions outlined below need to be embraced.
- The Act must not allow 'Ministerial discretion' in decision making. The Act should be absolutely clear in its definitions and processes so that there is no 'wriggle room'. There must be lines that cannot be crossed regarding protection of biodiversity, and the positioning of these lines must not be subject to political discretion. The Courts are there to adjudicate disputes, and these decisions must not be allowed to be subverted for short-term political expediency.

- The following of independent, authoritative, scientific advice is paramount. The conservation of biodiversity is an act of generational equity, and once lost can never be regained. Scientific knowledge and the precautionary principal must take precedence over short term economic or political expediency. Not all threatened species are seen as equal by uninformed developers and populist politicians. We frequently hear mocking press releases referring to a supposedly 'insignificant' frog or butterfly standing in the way of a new mine or subdivision. Everybody loves a cute cuddly koala but the disappearance of an 'unloved' critter may create unexpected waves across whole ecosystems. Likewise not all ecosystem types are seen as valuable, such as swamps or grasslands, but all deserve equal protection.
- A new Biodiversity Act must be strong enough to over-ride legislation governing other activities that may allow damage to biodiversity such as mining, tourist developments, forestry, land-use planning etc.
- Currently there is a huge disincentive to adding more individual species to threatened species lists, as it implies an obligation to act, which requires scarce resources to be spread even more thinly. Also there is a vast lack of information on which species might be threatened now: the monitoring simply hasn't been done at the scale and intensity required for the bulk of our biodiversity. Rectifying this knowledge gap requires significant additional long-term funding, and the establishment of a dedicated agency or unit.
- While individual species are undoubtedly important, the main focus of the new Act must be on protecting ecosystems.

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

- This is supported, but Kangaroo Island has been excluded from active indigenous land management for several thousand years and the remaining intact ecosystems found here are no longer shaped by such practices.

Topic 2 – Avoiding impacts

- The biodiversity values of all patches of remnant native habitat are not necessarily equal. The 'avoidance' line must be drawn under habitat with high value biodiversity, as identified by fully-funded independent scientific assessment. Avoidance of any damage to high biodiversity value land must be absolute and non-negotiable. All other land should require 'minimisation' of biodiversity impacts.
- Rehabilitation and restoration should be mandated actions after cessation of any existing commercial, private or government activities or developments that have resulted in damage to biodiversity.
- Offsets do not work and are open to abuse as has been demonstrated in numerous scientific studies. Their use should be discouraged and, where unavoidable, should be subject to intense scrutiny and evaluation.
- Special consideration needs to be given to avoiding impacts in areas recovering from natural disasters such as floods, droughts or bushfires.
- Consideration needs to be given to the cumulative 'death by a thousand cuts', whereby numerous 'minimisations' of impacts leads to major impact on biodiversity.

Topic 3 – Transparent decision-making

- Assessment of potential biodiversity impacts must be taken out of the hands of developers. At present, developers are required to self-report any adverse impacts and usually employ consultants to do the assessments for them. Environmental impact assessment must be

funded by developers but done at arm's length. Environmental impact assessors should not feel pressured to provide developers with favourable assessments to attract future work. Assessors need to be appointed independently and report directly to government, unmediated by the developers.

- The regulations under the Act need to be clear and unambiguous so that no developers are under any illusions about what is acceptable and what isn't. In this way proposed developments can align with the provisions of the Act from the beginning, thus reducing potential for costly and time-wasting protest and litigation.
- 'Major Project Status' must be removed from consideration as a means of allowing biodiversity-destroying developments to proceed. Major projects are ephemeral while biodiversity lost is gone forever.

Topic 4 – Threats to biodiversity

- There are a number of potential threats missing from the list such as pathogens, mass tourism (including opening up ever more remote areas for 'nature-based tourism' and the proliferation of remote luxury lodges), prescribed burning (which recent research is identifying as a major cause of biodiversity decline as well as paradoxically maintaining bushland at maximum flammability), economic growth, population growth, private aeroplanes, helicopters and drones (impacting animal behaviour, especially nesting birds), light pollution (also impacting animal behaviour and far more significant than usually credited), agricultural and urban runoff (especially significant for marine and freshwater biodiversity).
- While identifying and reporting on threats is supported, the Act must also mandate action to address all the threats, including those unanticipated issues such as the post-fire explosive spread of Tasmanian blue gums into native ecosystems on Kangaroo Island.
- The Act should include a 'climate trigger' to prevent approval of projects that contribute to climate change. If anthropogenic climate change is not arrested, then virtually everything else in the new Act is pointless.

Topic 5 – Assessing the risk of extinction

- The intrinsic value of all taxa needs to be acknowledged up front. Every living species is the result of 4 billion years of unbroken evolution, and not one should be seen as more or less expendable than any other, regardless of popular appeal.
- It is essential that resources be given to continuous biodiversity assessment, and updates to lists of at-risk species and ecosystems must be mandated and regular. If we don't know what we have or what is in peril, then everything else under the new Act would be meaningless.
- I agree that an independent expert scientific biodiversity advisory panel should be established and funded. Protocols for timely data sharing across jurisdictions must also be implemented.
- The globally accepted IUCN Red-List criteria are the most appropriate means of identifying threatened species. It is important to consider the status of sub-species and genetically distinct populations, this being especially relevant for Kangaroo Island.
- It is essential that an obligation to monitor, report on and especially implement actions for listed species be included in the new Act. Without mandated and fully funded action we are just monitoring and reporting on our biodiversity fading away.

- Fungi and invertebrates currently have almost no protection, despite collectively making up the overwhelming majority of all biodiversity. They are also the least known species. Marine and freshwater life is also insufficiently protected.

Topic 6 – Biodiversity planning and reporting

- While planning and reporting are essential, the Act should also mandate action to arrest and reverse the decline in biodiversity. Long-term funding is needed to assess the condition of both species and ecosystems, to identify and remove threats, and evaluate success.

Topic 7 – The benefits of information

- There are numerous databases across Australia held by State and federal government departments, NGOs, universities and other organisations, containing vast quantities of biological data. It is essential that protocols are established for this data be collected, stored and shared in a timely and consistent manner. Such information must be freely available to the community.
- Funding must be provided to maintain long-term standardised monitoring programmes for both species and ecosystems to detect changes and identify threats.
- "Providing certainty about where biodiversity impacts can't occur" is perhaps the most important role of a new Biodiversity Act. We can't allow massive corporations to litigate, buy and bully their way around environmental constraints as happens now. There must be unambiguous lines that cannot be crossed no matter how much money or influence is involved.

Topic 8 – Achieving 30 by 30

- Biodiversity within the park estate is not necessarily as fully protected as we might like to think (private Heritage Agreements have a much higher level of protection). Much of the park estate is zoned for 'minor development' (all of Flinders Chase National Park for example – except those bits zoned for intensive development) which allows quite a wide range of roads, tracks, carparks, picnic areas etc. with no restrictions on where they can be sited.
- The 30 by 30 goal is quite ambiguous and needs to be clearly explained and defined. There are issues around the shape, size and connectedness of individual parcels of remnant habitat that impact on their effectiveness as refuges for biodiversity. There are also issues around the representation of different ecosystems in different geographical areas (for instance the ability to protect 30% of all habitat types in the urban or agricultural zones). Much of the habitat considered as 'intact' is in the pastoral zone and subject to livestock grazing. Also, virtually all extant native habitat in the State is subject to foraging by introduced European honeybees (including by deliberate policy to allow commercial hives in many Parks), with largely unknown consequences for native pollinators or for pollination success for native plant species. And if any habitat types are assessed as having more than 30% remaining, that must not be a licence for further clearance.
- The impacts of anthropogenic climate change make the conservation of unbroken large swathes of native habitat even more urgent.
- There is an urgent need to identify and map habitat types not sufficiently protected either within the park estate or through private covenants. There must be means identified for protecting these areas, either through incorporation within the conservation estate or through existing or new private incentive schemes.

- It is not enough to just have an intention or goal to preserve or restore habitat, it needs to be partnered with well-defined and measurable goals and sufficient funding to fully implement, including on private land.

Topic 9 – Biodiversity – a shared responsibility

- "For a duty of care to be effective it must be linked to some type of enforcement action…Voluntary standards and codes of practice would be a practical means of fulfilling the duty." When have voluntary codes of practice ever stopped any powerful individuals or companies from doing whatever they please?
- A carrot and stick approach may be an effective long-term strategy for protecting biodiversity. Enforcement of wrongdoing is essential and penalties must be severe enough to provide a significant disincentive, but positive incentives could also be used, such as promoting official labelling for products created with no adverse biodiversity impacts.
- Much greater long-term support is needed for private landholders to protect and restore native habitat.
- The importance of biodiversity conservation needs to be embedded in the school curriculum and featured prominently in agricultural and community extension materials. The level of change needed in community attitudes requires long-term investment and resolve.

Topic 10 – Consequences of doing the wrong thing

- Now we come to the nitty-gritty! Penalties for damaging biodiversity must be sufficient that wealthy individuals and corporations can't just factor it in to their cost of doing business as usual. Why should destroying biodiversity, a crime against all future generations forever, be seen as less a crime than, for instance, robbing a bank or housebreaking? Wilful destruction of biodiversity should be seen as a major criminal act, given its generational consequences, attracting significant criminal penalties.
- It is essential that the new Act allow third parties to bring proceedings in the public interest, but the playing field needs to be levelled in relation to costs. Huge multinational corporations can't be allowed to act with impunity because nobody can afford to take them on, or because individuals, communities or NGOs don't have 'legal standing'. Australian history is littered with environmentally concerned individuals losing houses, jobs and bank balances in one-sided fights against environmentally destructive developments.
- An investigation/enforcement unit needs to be established, well-funded and invested with significant police powers.
- The Act needs to apply across all lands regardless of tenure, including those managed by local and State government.

Thank you for the opportunity to comment on this Discussion Paper, and for committing to a new approach to biodiversity conservation. We need to get this right so that future generations don't face an impoverished natural world. I look forward to being able to comment on the draft legislation.

Yours sincerely

Colin Wilson
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