



25 February 2025

Biodiversity Coordination Unit
Department for Environment & Water
GPO Box 1047
Adelaide SA 5001
BiodiversityAct@sa.gov.au

Dear Biodiversity Coordination Unit

Re: Draft Biodiversity Bill Final Submission – City of Holdfast Bay

The City of Holdfast Bay welcomes the opportunity to provide a submission on the Draft Biodiversity Bill and strongly supports the South Australian Government's efforts to strengthen biodiversity protection across the state. As a council committed to environmental sustainability, we recognise the vital role biodiversity plays in sustaining healthy ecosystems, enhancing community well-being, and building resilience to climate change. We are pleased to contribute our insights to ensure the Bill delivers meaningful, lasting outcomes for nature and our communities.

Most of the survey questions below are supported, with some detail provided on improvements that should be made. A summary of areas that we believe still need work are:

- Metropolitan Adelaide should not be excluded from the "regulated activities" process, as detailed in responses to Q3, Q4, Q9, Q13, Q30, Q31 and Q36.
- The definition of "native plant" is not supported as detailed in Q2.
- We support committees being appointed based on skills and expertise, but this appointment should be overseen by relevant peak bodies.
- The measures to protect planted native plants do not go far enough, with a recommendation for the age to be decreased to more than 5 years old.
- There are too many discretionary powers awarded to the Minister, these should be tightened to decrease ambiguity and provide a higher level of protection to biodiversity.
- New types of protected areas should apply in perpetuity, not be time limited.
- The Biodiversity Act should have primacy over other legislation, such as the Planning, Development and Infrastructure Act 2016.

1. Do you support the definition of 'plant' to include fungi and algae to allow for their protection under the Act?

Yes

2. Do you support adopting the definition for 'native plant' from the National Parks and Wildlife Act 1972, meaning any plant indigenous to Australia can be protected?

No. Each of the Landscape Boards in South Australia should have enough data to have an informed picture of what plants are/were indigenous to specific regions of South Australia. The definition of native plant should be defined as a plant indigenous to each Landscape region. If this

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is not possible, the definition should at least be defined as a plant indigenous to South Australia, but not Australia. These two definition options give more weight to the importance of these species in local ecosystems. The proposed definition of a native plant in the draft bill will also make it more administratively challenging to remove introduced interstate species (especially if they are not a declared species) when they are having a negative impact on native vegetation, particularly high value remnant patches.

3. Do you support the proposed objects of the Biodiversity Act?

Yes. However, the proposed objects will be difficult to achieve with the exclusion of the metropolitan area. Object 1 states that “responsibility equally shared by all of society across all sectors and supported by individual accountability”. Because of this exclusion the majority of South Australia’s population will be actively excluded from contributing to the proposed objects in their local area. This perpetuates the idea that nature is “over there” and diminishes the public’s individual accountability to and for protecting and enhancing biodiversity within the metropolitan area and beyond. It will be difficult to see an “improvement in the state of biodiversity at all scales”, as stated in Object 2, if the metropolitan area is excluded. Furthermore, the metropolitan area contains remnant patches of ecosystems that are vastly underrepresented across the state, which makes them incredibly important areas to protect. Unfortunately, they will be actively excluded in the process of Object 3 to “identify and prioritise biodiversity assets for conservation and restoration” leaving them open to further degradation or complete destruction.

4. Do you support the proposed guiding principles of the Biodiversity Act?

Yes, but as with our response to question 3, the proposed guiding principles are contradictory when the metropolitan area is excluded from the protections afforded under the Act. Guiding principle 1 will “require embracing new and transformative ways of thinking and acting”, the bold step to include metropolitan Adelaide under the Act is an aligned application of this principle. A great deal of biodiversity is contained within this area and is the most at risk from urban development than any other area, with remnant patches and revegetation projects offered no protections or certainty for their on-going contribution to increasing indigenous biodiversity. For example, in the City of Holdfast Bay, despite the small sizes of our natural spaces, they have provided important spaces for planting rare and endangered plant species, when they have become available for reintroduction.

5. Do you support what constitutes ‘harm’ and what is considered ‘reasonable measures’ for the purposes of the general biodiversity duty?

Yes

6. Do you support the governance framework for the Act, including the roles and reporting structure of the committees proposed to be established?

Yes, the responsible body for the Biodiversity Conservation Fund should be The Biodiversity Council.

7. Do you support committees being appointed based on their skills and expertise?

Yes, if a broad range of skills and expertise are represented. We disagree with the proposed appointment process for both the Biodiversity Council and Native Plant Clearance Assessment Committee (NPCAC) as it potentially concentrates too much power into the hands of the Minister. This appointment process should be overseen by the relevant peak bodies rather than “the government developing mechanisms for peak bodies to be consulted on the appointment process”.

- 8. Do you support the establishment of a Biodiversity Administration Fund as a means of providing transparency on which funds can be used for the administration of the Act?**
Yes, if the amount used for administrative processes is capped or kept to a minimum.
- 9. Do you support the 'regulated activities' and 'unregulated activities' approach to native plants?**
Yes. However, the definition of "unregulated activities" is unclear, and there needs to be clarity around whether approvals still need to be sought for these types of activities. Metropolitan Adelaide should not be excluded from the "regulated activities" process, as stated in responses to Q3 and Q4.
- 10. Do you support the development of a guideline which provides proponents with advice on how to apply the mitigation hierarchy?**
Yes
- 11. Do you support the new measure aimed at protecting planted native plants more than 20 years old, excluding those in people's gardens or commercial forests?**
No, this new measure should go further to protect planted native plants more than 5 years old. Native plants in and around commercial forests, where they have not been planted for the specific purpose of harvesting, should be protected.
- 12. Do you support the ability for the NPCAC to request further information and allow clearance applications to be resubmitted in favour of a more formal review process?**
Yes, however application re-submissions should be capped, with no ability to continue to re-submit for a formal review once one review has been conducted.
- 13. Do you support the 'regulated activities' and 'unregulated activities' approach to protecting and managing native wildlife?**
Yes. However, as stated in the response to Q9, the definition of "unregulated activities" is unclear, and there needs to be clarity around whether approvals still need to be sought for these types of activities. Metropolitan Adelaide should not be excluded from the "regulated activities" process, as stated in responses to Q3 & Q4.
- 14. Do you support introducing targeted controls for managing impact causing species in favour of an 'unprotected' list of species?**
Yes, we support introducing targeted controls for managing impact causing species rather than an 'unprotected' list of species.
- 15. Do you support the approach of determining trafficable quantities of species with higher penalties?**
Yes.
- 16. Do you support the concept of listing threatened ecological communities (similar to the process used for threatened species)?**
Yes.
- 17. Do you support enabling a head power to list other ecological entities in the future, based on criteria to be prescribed in regulation?**

In principle yes, but more information about the criteria that will be prescribed in the regulation is needed.

18. Do you support relying on the existing offences for plants and animals, instead of creating a new offence for threatened ecological communities or other listed ecological entities?

No. The existing offences are far too low. Penalties for breaches must be more severe than they are currently.

19. Do you support the ability to apply a 'provisional listing' of species and ecological communities where appropriate?

Yes.

20. Do you support the ability to declare critical habitat to provide increased protections for threatened species, threatened ecological communities, and other listed ecological entities?

Yes. However, this should not be at the discretion of the Minister rather it should be based on the Scientific Committee's recommendation. The approval process to clear and/or damage this declared critical habitat should be strengthened, with approvals only gained in extenuating circumstances. The incorporation of critical habitat into the land-use planning system should be compelled (i.e. suggest changing phrasing to "the Minister must include information relating to critical habitat").

21. Do you support the ability to develop action plans for the protection and recovery of a threatened species, threatened ecological community, or listed ecological entity?

Yes, but there should be a requirement to develop and implement, rather than at the discretion of the Minister. Funding contributions must be made available by the state government for species/TECs with an action plan. Consultation must occur with these stakeholders throughout the development of the Action Plan.

22. Do you support renaming Heritage Agreements to 'Biodiversity Agreements' to better reflect their role?

Yes

23. Do you support the introduction of new types of protected areas for private land, including the proposed Conservation Agreements?

Yes, however these should not be time limited. They should apply in perpetuity, as do current Heritage Agreements, otherwise this could lead to significant effort and investment in establishing or improving a protected area only to see it cleared and/or damaged once the agreement expires, if it is not renewed.

24. Do you support provisions for enforceable undertakings as a method to manage breaches of the Act?

Yes.

25. Do you support the proposal to introduce wider standing for people to make an application to the court for civil enforcement of a breach of the Act?

Yes.

26. Do you support the concept of 'no development' orders?

Yes, but these must be actively used and enforced.

27. Do you support the option of civil penalties for breaches of the Act?

Yes.

28. Do you support the penalties for criminal offences proposed under the Act?

Yes.

29. Do you support the permit provisions proposed in the Biodiversity Act?

Yes.

30. Do you support the provisions that set the scope of the State Biodiversity Plan?

Yes, however as expressed in response to Q3 and Q4, with metropolitan Adelaide excluded from the scope there will be no opportunities for any conservation or restoration opportunities to be identified within this area, leaving the last remaining patches of important remnant vegetation as well as revegetation projects in this area at risk of decline or loss from development or neglect.

31. Do you support the recognition of culturally significant biodiversity entities?

Yes, but as expressed in response to Q3, Q4 and Q30, culturally significant biodiversity entities in metropolitan Adelaide will be excluded from the scope leaving them open to unregulated destruction.

32. Do you support the requirement for decision makers under the Act to take the State Biodiversity Plan into account?

Yes, but this requirement should go further. Decision makers under the Act should make decisions consistent with the plan as opposed to only taking the Act into account.

33. Do you support the proposal to establish a Biodiversity Register?

Yes.

34. Do you support the framework that the Bill proposes for the regular review of the Act?

Yes.

35. Do you support moving the clearance exclusions into a schedule to the Act so they are in one place?

Yes.

36. Do you agree with the changes to the unregulated activities in Schedule 2?

Yes, but these changes do not go far enough. The introduction of a new Biodiversity Act for SA misses the opportunity to extend native vegetation protection to metropolitan Adelaide and neglects the important role that urban ecosystems play in conservation. Metropolitan Adelaide is home to numerous areas of threatened ecosystems, particularly in coastal areas, riverine corridors, and the foothills. These all provide critical habitat that should be formally recognised under the Act rather than be excluded. The exclusion of comprehensive vegetation protections in metropolitan Adelaide leaves these critical habitats vulnerable to ongoing urban expansion, infrastructure projects and inadequate planning provisions. It also undermines ambitious conservation and revegetation initiatives of many metropolitan councils. South Australia could lead in biodiversity conservation, and with Adelaide being promoted internationally as a National Park City, this leadership must extend across our metropolitan landscape.

37. Do you support updating the existing 'principles of native vegetation clearance' to 'principles of preservation of native plants' to align with provisions in the Biodiversity Act related to threatened species, threatened ecological communities and listed ecological entities?

Yes.

38. Do you support the amendments proposed to the National Parks and Wildlife Act 1972?

Yes.

39. Do you support the amendments proposed to other legislation?

Yes. However, the State Landscape Strategy should be compelled to comply with the strategies and priorities set out in the State Biodiversity Plan, rather than just consider them. In this same vein, the incorporation of critical habitat into the land use planning system should be compelled (i.e. the Minister must, not may, include information relating to critical habitat). The Biodiversity Act should have primacy over other legislation, such as the Planning, Development and Infrastructure Act 2016.

Yours sincerely

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