

Developing a Biodiversity Act for South Australia

Community consultation report



Acknowledgement of Country

The South Australian Government acknowledges Aboriginal people as the First Peoples and Nations of the lands and waters we live and work upon and we pay our respects to their Elders past, present, and emerging. We acknowledge and respect the deep spiritual connection and the relationship that Aboriginal and Torres Strait Islander people have to Country. First Nations peoples is used throughout this document in reference to Aboriginal and Torres Strait Islander peoples as the sovereign people of this land. It recognises various language groups as separate and unique sovereign nations. The Department for Environment and Water (DEW) respectfully acknowledges this term is not universally used by all First Nations peoples in South Australia.

COVER PHOTOS

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Bottom inset: © Martin Stokes



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Executive summary

The South Australian Government is developing a new Biodiversity Act to better protect and conserve our state's unique biodiversity.

Biodiversity is the incredible diversity of life on our planet, encompassing different species of plants, animals, microorganisms, and the ecosystems they form. Functioning biodiversity underpins our economy and provides us with the essential services we rely on – such as clean air, healthy soil, modern medicine, food on our plates, and a resilient earth that can respond to threats like climate change.

South Australia does not currently have a dedicated Act to safeguard biodiversity, instead provisions exist across multiple laws, which has led to gaps in protections. Developing a new Act and increasing the effectiveness of our legislative framework will allow us to do things differently. The new Act will be an important tool in ensuring South Australia's long-term future through a resilient and sustainable economy, while safeguarding nature for future generations to enjoy.

As part of Act's development, the Department for Environment and Water undertook consultation to understand community expectations around biodiversity conservation and priorities for the Act. Participants were asked to consider a series of identified opportunities for the Act and indicate the extent of their support for their implementation in South Australia.

A total of 1,404 submissions were received during the 12 week consultation. This included 508 surveys through YourSAy, 802 direct emails and 94 written submissions from individuals, peak bodies, groups and other organisations. The detailed submissions that we have been granted permission to share are linked in Appendix 1.

In addition, it should also be noted that some organisations published recommended submissions to the consultation, which were replicated by individuals and have been included in this report.

The department also engaged directly with other government agencies including the Department for Energy and Mining, Primary Industries and Resources SA, Department for Infrastructure and Transport and the Department for Trade and Investment – Planning and Land Use Services to seek feedback on the architecture of the Act.

This report provides a summary of what we heard as part of this consultation. Select quotes have been included to reflect the range of sentiment expressed. It does not include any commentary on the government's response to the feedback and/or how it will be incorporated or reflected in the Act.



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Key themes from the consultation

There was strong support for:

- giving primacy to biodiversity
- improving public consultation, influence in decision-making, and disclosure
- taking an ecosystem approach
- ensuring any processes established under the Act are streamlined
- improving data collection, collation and collaboration
- a statewide strategy for biodiversity
- meeting the international 30 by 30 targets
- providing incentives for people who are doing the right thing
- ensuring that penalties are severe so that they act as a deterrent.

Further consideration should be given to:

- the concept of Ecologically Sustainable Development (ESD)
- opportunities for government to better support private land conservation
- the value of urban biodiversity
- mechanisms that will accelerate the restoration and repair of biodiversity
- accounting for cumulative impacts
- responsibilities for data management
- a nature positive focus
- the application of 30 by 30 across the landscape

- ensuring adaptability of provisions under the new Act
- the practical application of a 'Biodiversity Duty of Care'
- appropriate third-party standing provisions.

There was general concern about:

- resourcing to support the Act and the potential for non-compliance
- introduction of red tape
- alignment with other legislation
- duplication of processes
- role of government
- economic impact of the Act
- whether the Act will be effective in achieving biodiversity net-gain.

Some of the feedback received was out of scope of the Act itself but has been captured for future consideration as appropriate.

This includes ideas and opportunities that will be considered during the development of regulations and policy or when designing programs to support effective implementation of the Act (for example, education and awareness raising programs).

In addition to this public consultation, the Department for Environment and Water undertook targeted engagement with First Nations peak bodies and groups. A separate engagement report will be prepared and provided to participants.

All feedback received will be used to guide the development of the draft Bill. Further consultation will take place on the draft Bill and is expected in the second half of 2024.



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Introduction

Background

Biodiversity refers to the variety of life on earth, encompassing all plants, animals, ecosystems and the genetic variety found in them. It includes the variety within species, between species, and among ecosystems.

Our biodiversity supports life as we know it. We need functioning biodiversity for clean air, healthy soil, modern medicine, food on our plates, and a resilient earth that can respond to threats like climate change. More than simply supporting our way of life, many also believe that each species has a value and right to exist and that we have an ethical responsibility to protect this right.

Unfortunately, biodiversity is in crisis across the globe. Research estimates that at least 1 million species, or 1 in 8, are now threatened with extinction. In South Australia alone, more than 1,100 species are listed as threatened and that is thought to be an underestimate.

To address this crisis and protect our state's unique biodiversity, the South Australian Government has committed to introducing new legislation to safeguard nature. This forms part of the government's Plan for Biodiversity Protection and Protecting Nature initiative, and aligns with the South Australian Economic Statement, which identifies that healthy ecosystems and biodiversity are key to economic prosperity and a better quality of life.

The initial stages of the Biodiversity Act's development included a workshop with key stakeholders and experts to develop the legislation's underlying principles. This helped to inform the Act's goals – recover, conserve, protect and adapt.

The next step aimed to gather feedback from the broader community and other interested organisations on the priorities for the new Act.

How we engaged

A **discussion paper** was prepared to support the consultation, outlining 10 opportunity areas for the Act. These topics were identified based on an understanding that legislation must recognise the value of biodiversity as a whole, promote a sense of shared responsibility in its ongoing protection, provide for its restoration, and create accountability. This paper was supported by a suite of **frequently asked questions**.

A survey, available on the South Australian Government's YourSAy website, was the primary mechanism to gather feedback and included a total of 30 proposals relating to the identified topics. Participants were asked to rate each proposal using a Likert scale, ranging from 'strongly disagree' to 'strongly agree', and were also able to add comments about each theme. They were able to complete in full or skip ratings or themes they did not wish to comment on. Participants were also able to submit written feedback separately via email or post.

The Department for Environment and Water promoted the consultation through multiple channels, including social media, traditional media via a media release and emails. The consultation was further promoted by Tim Jarvis AM, who partnered with the department to increase awareness.

The YourSAy consultation was open from Wednesday, 6 December 2023 to Friday, 1 March 2024. This included a 2 week extension, which was granted following requests received from organisations and groups needing additional time to facilitate their internal review and approval processes.

A total of 1,404 submissions were received during the 12 week consultation. This included 508 surveys through YourSAy, 802 direct emails and 94 written submissions from individuals, peak bodies, groups and other organisations.

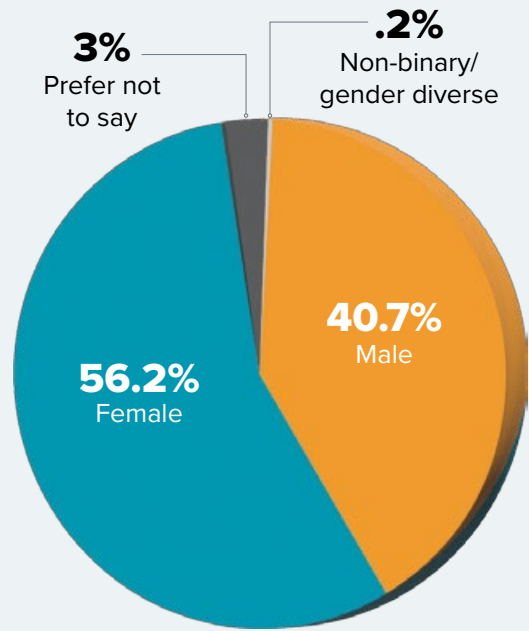


Who we heard from

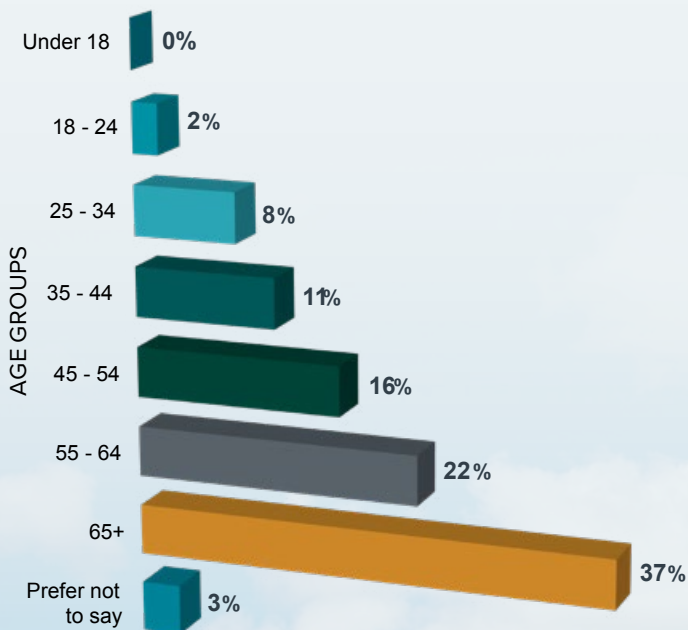
Submissions were made from a wide spectrum of the community.

Please note: this data is representative of those who submitted a response through the YourSAy platform and does not include those who sent feedback via direct email or or post.

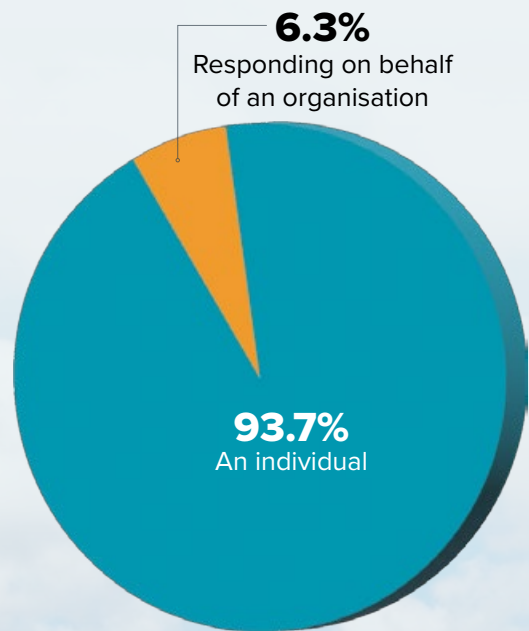
Respondents gender



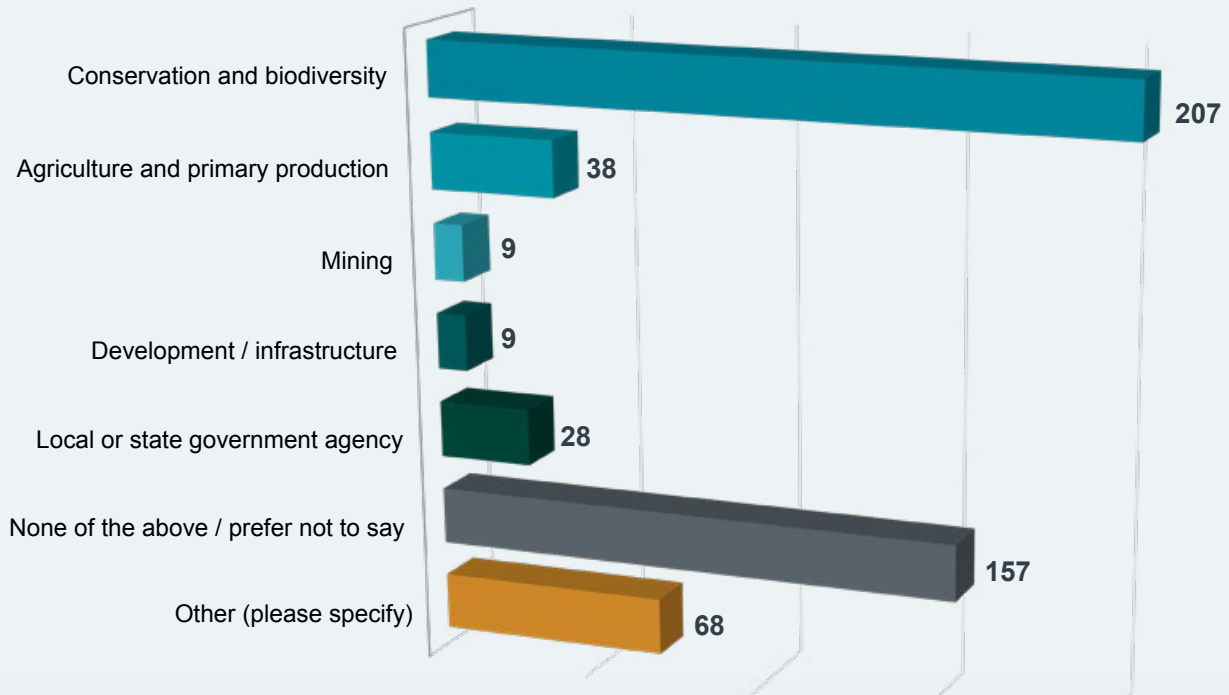
Respondents age



Responses from individuals vs organisations



Respondents sector



Other sectors identified by survey participants included: academia/universities, human health, animal care/welfare, veterinary medicine, horticulture, education, tourism, environmental professionals, scientists, emergency services, private land owners/managers and interested community members.

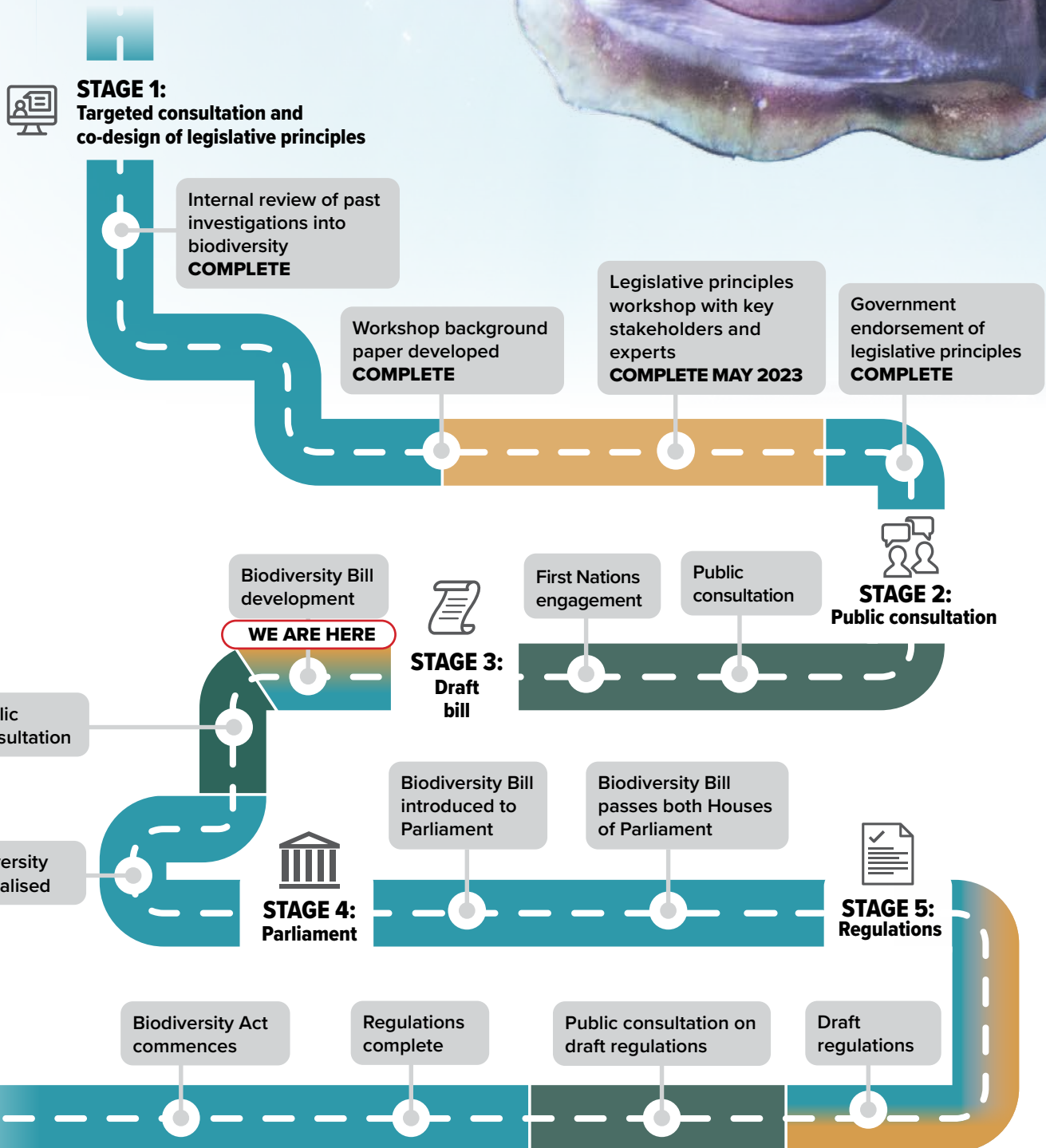
Survey submissions identified as being made on behalf of an organisation:

Please note some of these organisations also submitted detailed written responses.

- A Rocha Australia
- Aldgate Valley Landcare Group Inc.
- Alexandrina Council
- Birds SA
- Cardiness Pty Ltd
- City of Charles Sturt
- City of Tea Tree Gully
- City of Salisbury
- City of Victor Harbor
- Ecological Society of Australia
- Environment Institute of Australia and New Zealand Inc (South Australia division)
- Eyre Peninsula Landscape Board
- Friends of Brownhill Creek
- Friends of Cleland National Park
- Friends of Shorebirds SE Inc
- Friends of Willunga Basin Inc.
- Friends of Woorabinda Bushland Reserves
- Landcare Association of South Australia
- Letcombe Foundation
- Lochiel Progress Association
- Minton Farm Animal Rescue Centre
- Nature Based Outdoor Activity Network of South Australia
- Nature Based Outdoor Network of South Australia
- Second Nature Conservancy Inc. (formerly GWLAP)
- South Australian Museum
- South Australian Veterinary Emergency Management (SAVEM) Inc
- Southern Koala and Echidna Rescue Ltd
- Threatened Plant Action Group (TPAG)
- Worlds End Conservation Pty Ltd
- Zoos South Australia

Next steps

The feedback received will be used to guide the development of a draft Biodiversity Bill. The diagram below details the broad stages of development of the Biodiversity Act and highlights the opportunities for input by different parties. The next public consultation will take place on the draft Bill, anticipated in the second half of 2024.



STAGE 1:
Targeted consultation and co-design of legislative principles

Internal review of past investigations into biodiversity
COMPLETE

Workshop background paper developed
COMPLETE

Legislative principles workshop with key stakeholders and experts
COMPLETE MAY 2023

Government endorsement of legislative principles
COMPLETE

Biodiversity Bill development
WE ARE HERE

STAGE 3:
Draft bill

First Nations engagement

Public consultation

STAGE 2:
Public consultation

Public consultation

Biodiversity Bill finalised



STAGE 4:
Parliament

Biodiversity Bill introduced to Parliament

Biodiversity Bill passes both Houses of Parliament



STAGE 5:
Regulations

Biodiversity Act commences

Regulations complete

Public consultation on draft regulations

Draft regulations

INVOLVEMENT BY:

- Public
- Key stakeholders and experts
- Government



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

Increasing involvement of First Nations South Australians in biodiversity matters and respecting their perspectives

First Nations peoples have been managing Country and living harmoniously on South Australia's lands and waters for more than 65,000 years.

We know that First Nations peoples' perspectives and knowledge of Country can provide a meaningful contribution to address the biodiversity crisis more effectively, and that First Nations peoples are the custodians of that knowledge.

The new biodiversity legislation will seek to respectfully acknowledge and incorporate First Nations perspectives, knowledge, interests, and rights – both during development of the legislation and ongoing during implementation of the Act.

Recognition of First Nations peoples and their long-standing knowledge of and care for Country were identified as a critical opportunity for the Act, however, no questions were asked about this in the public consultation. Instead, the department undertook additional targeted engagement and consultation with First Nations groups. Some survey participants did take the opportunity to provide feedback in their written responses to the survey. This included comments relating to the below themes:

- Recognition needs to be given to protecting intellectual property relating to traditional ecological knowledge.
- First Nations peoples need to be empowered and engaged in looking after their Country.
- First Nations peoples must be part of any committee or other body established under the Act.

Engagement with First Nations peoples on the Biodiversity Act

Face-to-face workshops with Prescribed Bodies Corporate, First Nations peak bodies, groups and other representatives were held in Adelaide, Ceduna, Port Augusta and Berri throughout February and March 2024. An online workshop was also held in April 2024 to support additional participation.

The workshops aimed to:

- share why the South Australian Government is developing the new legislation
- discuss the importance of Caring for Country to First Nations peoples, and identify issues and challenges under existing legislation that has an impact on biodiversity
- provide an opportunity for First Nations peoples to provide input and help shape the legislation to better support First Nations people caring for Country (land, waterways, seas, plants, and animals).

The feedback received from First Nations peoples in the targeted engagement sessions will be documented and provided to participants. The feedback will be used to guide the development of the draft Bill.

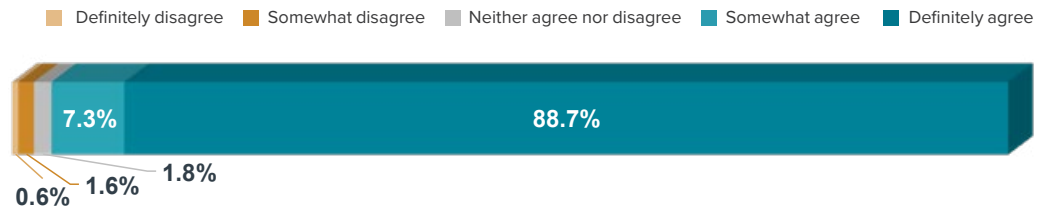


Topic 2: Avoiding impacts

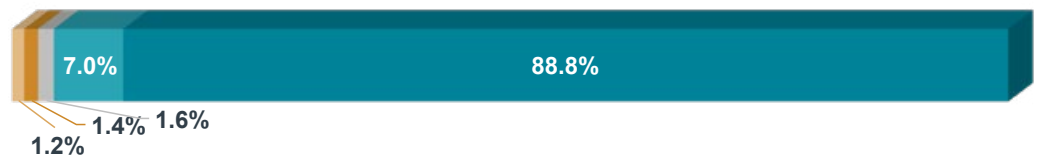
Promoting avoidance and minimisation of impacts to biodiversity

Identified matters for consideration:

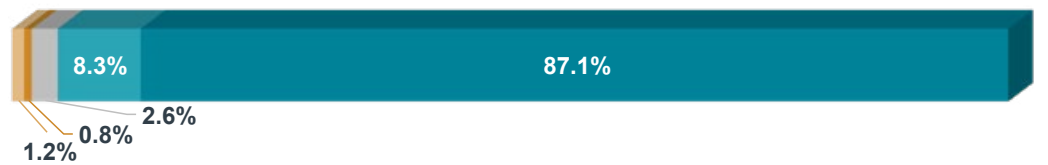
1. The Act could seek to prioritise avoidance and minimisation of impacts to biodiversity and make it clear that any negative impacts to biodiversity are the last resort (506 responses).



2. The Act could provide for a framework that includes clear guidance on the requirements to avoid and minimise impacts to biodiversity (502 responses).



3. The Act could require evidence is provided justifying how avoidance and minimisation have first been addressed as per the mitigation hierarchy (504 responses).



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 (503 responses).



Main themes of feedback

- There needs to be greater incentives for the retention or replacement of lost vegetation.
- Baseline data must be available to better understand the losses and gains.
- An ecosystem approach should be taken, rather than considering individual species.
- ‘Avoidance’ must be the top focus.
- The concept of offsetting needs to be used far more sparingly, rather than as a default response.
- Evidence needs to be provided for justifying why avoidance could not be achieved.
- Developments need to transition from a ‘minimum impact’ to a ‘nature positive’ focus.
- Promote biodiversity being retained within development areas.

Comments from survey participants

“The decline of biodiversity in SA since broad-scale clearance protection is no surprise – the cumulative impact of minimisation policies and practices has been a major factor in the ongoing decline. For true reform to occur, there needs to be a fundamental shift away from the standard policy & practice of impact minimisation as the convenient “go to” option instead of avoidance if SA is to arrest irreversible biodiversity decline.”

“There should be a value applied to retaining habitat. You want to encourage and reward good behaviour by developers and individuals.”

“The act should distinguish and make concessions for developers/businesses that are authentically, ethically and soundly doing the right thing already.”

“Offsetting is inadequate, poorly monitored and enforced and doesn’t ‘measurably’ improve biodiversity outcomes”

Topic 3: Transparent decision-making

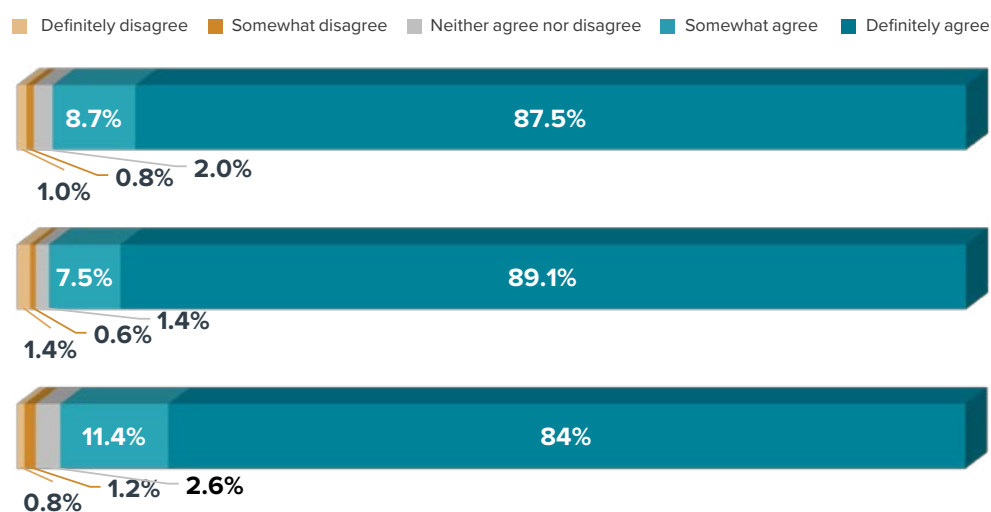
Ensuring awareness of outcomes

Identified matters for consideration:

5. The Act could require government maintain a public register to ensure decisions made that impact biodiversity are disclosed (505 responses).

6. The Act could require mandatory reporting so that impacts to biodiversity and actions taken to repair biodiversity are fully disclosed (504 responses).

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 are required in the context of decisionmaking about biodiversity (502 responses).



Main themes of feedback

- The Biodiversity Act needs to apply equally to all levels of government along with general society.
- Ecologically Sustainable Development (ESD) needs to have a very clear definition.
- The concept of ESD needs to have biodiversity at its core.
- Information on decisions that have allowed activities that ultimately result in biodiversity loss need to be publicly available, easy to access, and easy to understand.
- The public should be consulted and their input should inform any decisions made.

Comments from survey participants

“As biodiversity impacts on all of us we all should be able to have a say on whether it gets destroyed or kept.”

“ESD by nature is a contested area and decision-making on what constitutes an optimal ESD outcome (over the long term) should be by an independent body.”

“We need to see the decision points and also the rationale for decisions. The public often hears that all options were considered, when in fact there is no evidence of any option being considered other than removal of biodiversity. Individuals should be named for good and poor decisions”

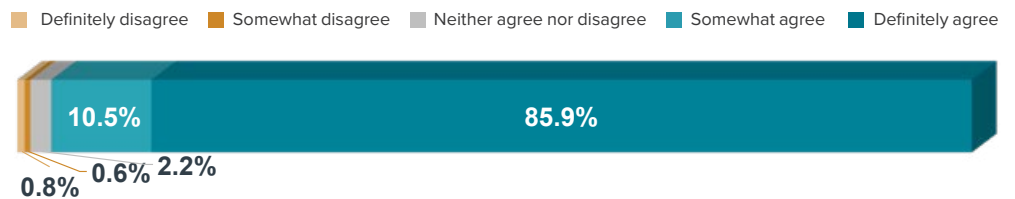
“The idea that ESD is compatible with biodiversity is problematic.”

Topic 4: Threats to biodiversity

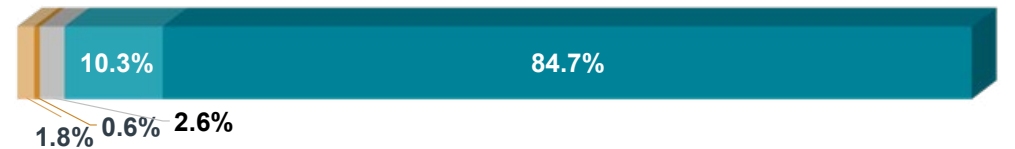
Recognising threats to biodiversity decline and improving our management of them

Identified matters for consideration:

8. The Act could provide for a framework for the identification of threats to biodiversity (505 responses).



9. The Act could include statutory obligations for actions to address threats to biodiversity (505 responses).



Main themes of feedback

- More government-supported action is needed to mitigate threats.
- The influence of climate change needs to be considered a threat.
- The effect of cumulative impacts needs to be taken into consideration.
- Anthropogenic threats need to be recognised.

Comments from survey participants

“It is our job to implement strategies to address and monitor these threats. One of these is the fragmentation of native vegetation across the state. A state implemented planting and native vegetation management regime, would be incredibly beneficial to protecting native species.”

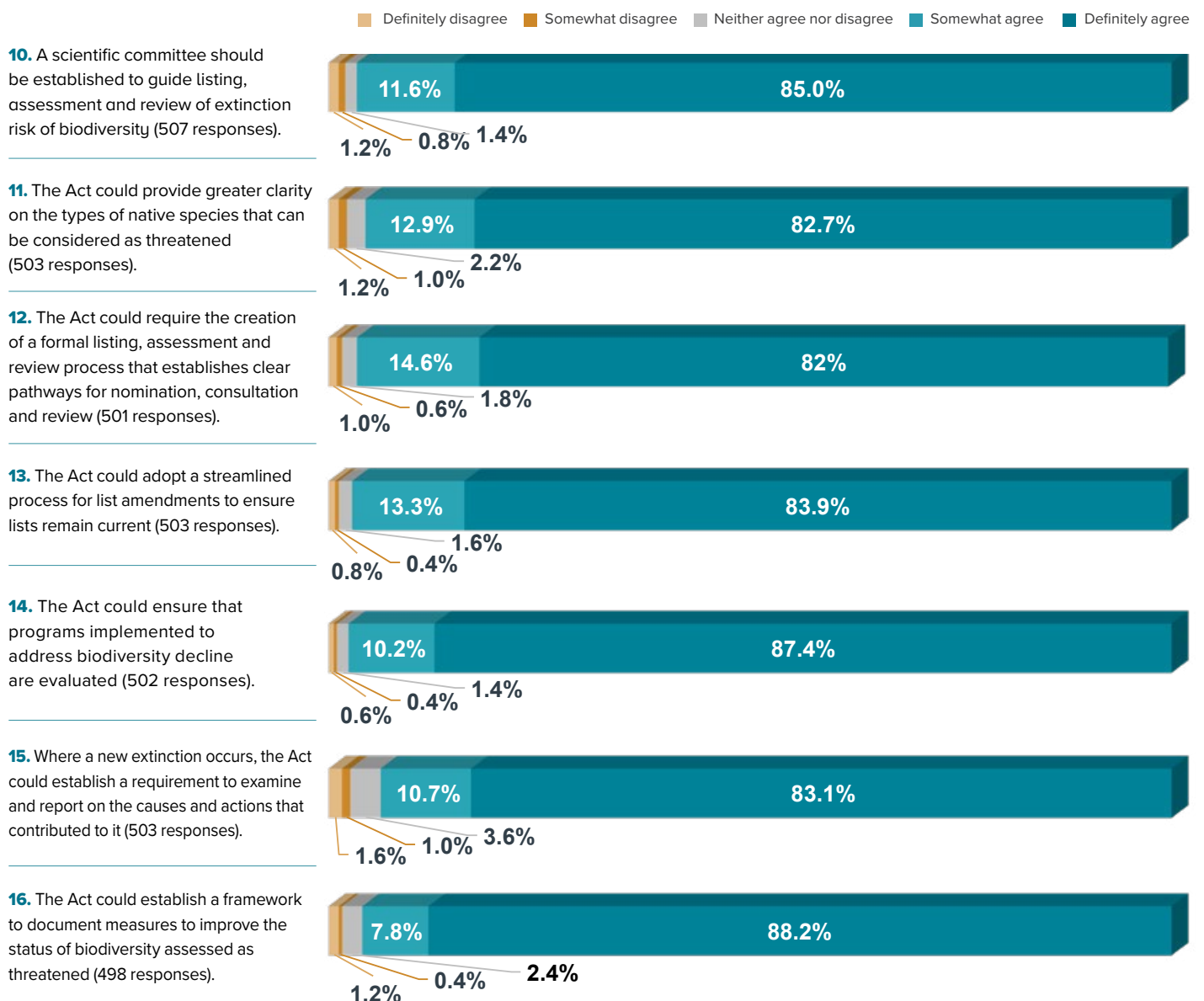
“Identifying threats to biodiversity is strongly supported, however, it is absolutely critical that this is not where it stops. It must be legislated that action must be then taken to mitigate against the identified threats, and adequate resources to be allocated to this task.”

“I believe most of the threats to biodiversity loss are well-known and documented, so creating a framework for identifying threats, seems unnecessary and a step backwards, if not a waste of resources.”

Topic 5: Assessing the risk of extinction

Improving understanding of extinction risk and implementing mitigation measures

Identified matters for consideration:





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Main themes of feedback

- Evidence-based and scientifically sound assessments are crucial.
- Consideration needs to be given to more than just basic plants and animals.
- Ecosystems / ecological communities must be considered.
- Processes should not delay the ability to assess and list.
- Threatened species lists must be easy to access and kept up to date.

Comment from survey participants

“The scientific committee must include Aboriginal representation to provide insights into ways of knowing, being, and doing, to compliment the western scientific narrative”

“Too much attention is given to iconic species while we rapidly lose the micro species that are underfoot and unseen but provide a baseline for biodiversity”

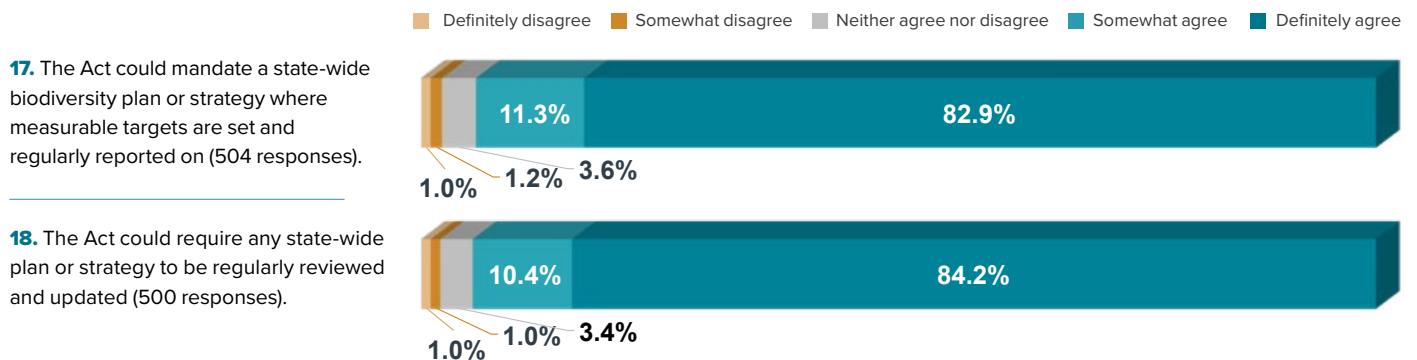
“There is arguably too much focus on individual species in most biodiversity legislation. What we want are healthy, functioning ecosystems”

“Just measuring risk is not enough, the Act should assign responsibility for implementing management / recovery action for threatened species.”

Topic 6: Biodiversity planning and reporting

Supporting state level planning for biodiversity priorities

Identified matters for consideration:



Main themes of feedback

- A statewide biodiversity plan should give direction to, and integrate with, other plans and strategies.
- The performance of a state biodiversity plan should be regularly reported to the public.
- First Nations peoples need to be involved in planning.
- Public consultation should be part of creating a state plan.

Comments from survey participants

“A state-wide biodiversity plan would help local and state government agencies delivering landscape and revegetation projects to better target and align these projects with state-wide biodiversity priorities.”

“This is probably the biggest driver for change - the strategy has to have a vision, it has to detail how to get there and the resources needed. This drives funding and aligns volunteers and others to measured outcomes”

“We need to address biodiversity issues at the landscape scale, and bigger. It is a serious deficiency to attempt biodiversity protection on an ad-hoc basis. The information provided from such an approach would truly inform us as to the problems we face.”

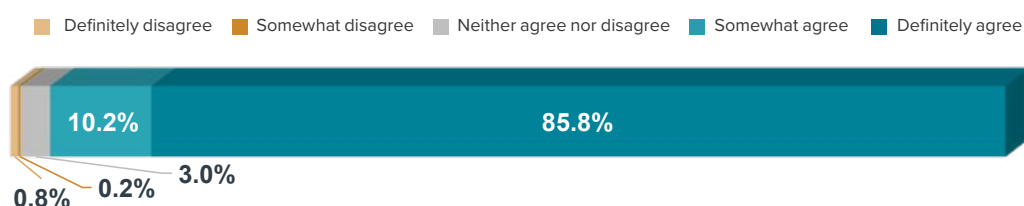
“Many plans get written and then sit on shelves collecting dust – a new State plan for biodiversity should only be prepared if there is a true commitment to resourcing the actions identified within it to reverse biodiversity decline.”

Topic 7: The benefits of information

Better data collection, collation, interpretation and dissemination

Identified 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 (502 responses).



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 (503 responses).



21. The new Act could establish requirements for the submission of biodiversity data collected in South Australia to a central repository (502 responses).



22. The new Act could direct the development of a policy that describes requirements for the collection, collation, interpretation and dissemination of biodiversity information (499 responses).



Main themes of feedback

- Consideration needs to be given to how sensitive and confidential data is treated and made available.
- Access to data needs to be made available without cost.
- The contribution of citizen science should be recognised.
- Data should align with common standards.
- An independent body should be responsible for biodiversity data.

Comments from survey participants

“Having the state government responsible (and suitably equipped) to manage biodiversity information seems to be an essential support for delivering biodiversity planning and management. Care should be taken however in making provision for handling of sensitive information, whether that be data of cultural importance that should not be made public, or on species that are at risk from poaching if detailed information is made known about them.”

“The Act could consider harnessing the immense power of (peer-reviewed) citizen science databases to contribute to SA's biodiversity information.”

“The management of biodiversity information should be assigned to an independent agency with a mandate to obtain, store, analyse, and publish information from a broad range of sources - public, private and research.”

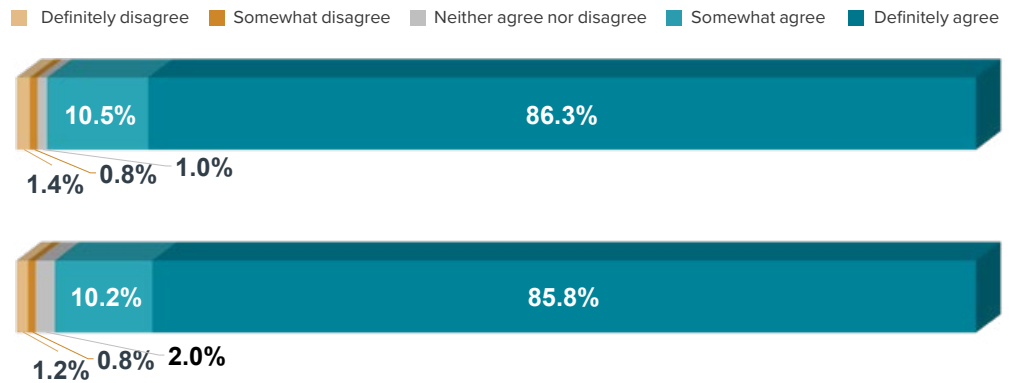
Topic 8: Achieving 30 by 30

Exploring new and different ways to protect nature

Identified 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 (503 responses).

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 (502 responses).



Main themes of feedback

- Consideration needs to be given to ecological/wildlife corridors as linkages between areas providing protection.
- Landowners could achieve better results through better availability of technical information and support.
- The size of land should not be a determinant for receiving conservation recognition or assistance.

Comments from survey participants

- “There should be greater emphasis on private conservation, working with landholders and property owners to sustainably manage land and promote biodiversity, working alongside agriculture, for example sustainable land use in dryland agriculture.”
- “‘30 by 30’ is not just about “protection” (Target 3), it is also about “effective restoration” (Target 2). Protecting areas that have been restored from a degraded state is crucial for increasing biodiversity. Current legislation poorly protects planted restored areas.”
- “I think that 30% is too low. We should be aiming higher.”
- “Creating reserves is pointless without adding sufficient management resources to protect and enhance their biodiversity value.”

Topic 9: Biodiversity – a shared responsibility

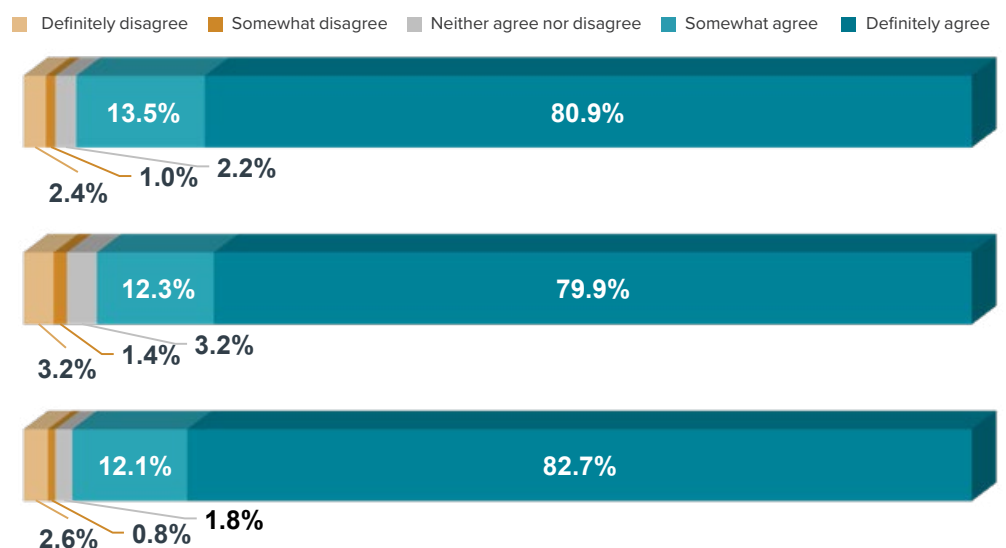
Ensuring we all pay attention to and care for nature

Identified 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 (502 responses).

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 (503 responses).

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 (504 responses).



Main themes of feedback

- There needs to be a greater level of education and awareness of the need to look after biodiversity.
- A duty of care needs to apply to individuals, corporations and government.
- Adequate resourcing for compliance is important for a duty of care to be effective.

Comments from survey participants

“This duty of care must be linked to proactive compliance enforcement. It must cover private developers and local and state government actions even if it means we have to be more creative in the design of infrastructure, major buildings and private dwellings.”

“Important to promote the view that there is nothing scary about this - it is about being responsible for and looking after what sustains us all now and into future generations of people.”

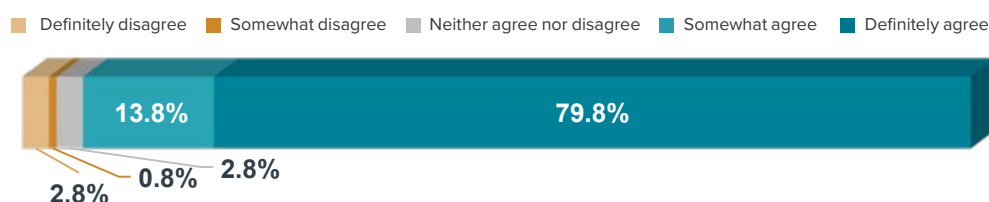
“The general environmental duty set out in the [SA] Environment Protection Act [1993] I feel is completely ignored by most individuals and companies, people are rarely penalised, I fear this could happen with this Act.”

Topic 10: Consequences of doing the wrong thing

Introducing stronger penalties and more options for enforcement

Identified 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 (500 responses).



29. The Act could enable suitable non-government parties to commence proceedings for offences under appropriate circumstances (500 responses).



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 (496 responses).



Main themes of feedback

- Much stronger penalties are required.
- Adequate resourcing for compliance and enforcement are critical.
- Government needs to be held accountable.
- Penalties must not just be seen as a cost of doing business.
- Restoration should be required, rather than simply applying a monetary penalty.

Comments from survey participants

“The penalties should be much higher and consider the long term impacts of any impact and cost of remediation or restoration.”

“The role of civil society, including community groups and interested individuals, in enforcing environmental laws is critical, therefore the proposal for non-government parties to be able to commence proceedings for offences committed under the new Act is strongly supported. Specifically, it is critical that third parties be able to pursue merits review of decisions made under the new Act.”

“I think it is important that governments retain the right to commence proceedings for alleged offences. I do not think this power should be placed in the hands of private citizens or groups.”

Additional feedback

Throughout the survey, participants provided additional general feedback relating to biodiversity. Some of this feedback did not directly relate to the identified topics, and so has been included here.

Some of this feedback may not be in scope for the development of the Biodiversity Act, but has been captured for future consideration as appropriate. This includes ideas and opportunities that will be considered during the development of Regulations and policy, or when designing programs to support effective implementation of the Act.

The main themes of this feedback have been summarised:

- Provide for recovery of past losses, not just the immediate impacts.
- There needs to be careful alignment with other Acts that intersect with biodiversity, particularly the *Planning, Development and Infrastructure Act 2016*, *Native Vegetation Act 1991* and *Environment Protection and Biodiversity Conservation Act 1999*.

- Adequate resourcing needs to be provided for implementation and operation of the new Act.
- More public awareness is needed about the importance of biodiversity and the threats it faces.
- Foundational biodiversity education should feature in the school curriculum.
- Ensure legislation doesn't prevent or limit actions aimed at achieving improved biodiversity outcomes.
- Don't introduce more red tape.



Detailed submissions

Detailed written submissions were received from various individuals, organisations, groups and representative bodies. In addition to the feedback themes highlighted throughout this document, additional themes identified through these submissions have been summarised and included below, divided by topic area. Full submissions can be viewed in Appendix 1.

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

- Acknowledgement of long and enduring history of caring for Country.
- Support for meaningful and empowering involvement of First Nations peoples in all aspects of the Act, including biodiversity planning, decision making, restoration, and land and species management.
- The Act should provide pathways for better First Nations consultation, engagement and co-design.
- Support for Traditional Knowledge and 2-way science to be used, with required protocols and protection for Cultural Intellectual Property.
- The Act should include protection of culturally significant species.

Topic 2 – Avoiding impacts

- Provide a clear definition of biodiversity.
- Limit access to offset schemes by creating a strong legal framework to control their use and management.
- Establish a list of matters that are not able to be offset, such as critical habitat.
- Give strong powers to the Minister administering the Act.
- Prioritise avoidance and retaining, restoring and enhancing existing biodiversity.
- Seek to achieve biodiversity net-gain.

Topic 3 – Transparent decision-making

- Biodiversity protection must be given primacy and be integrated into all decision-making processes across government.
- The Act should be underpinned by, and consistent with, the concept of nature positive.
- Include rules-based ‘directing principles’ as an alternative to Ecologically Sustainable Development.
- Include accountability mechanisms, such as provisions to regularly review the Act and requirements to audit performance on key biodiversity issues.
- Establish requirements that improve community consultation processes relating to projects where environmental impacts are expected.
- Mandate clear reporting and evaluation requirements in offsetting.
- Ensure provisions within the Act do not create an inappropriate administrative burden.



Topic 4 – Threats to biodiversity

- Restoration and repair of biodiversity should be a key consideration.
- The value of urban biodiversity should be recognised.
- The Act should be adaptive and flexible to enable a fast response to new, unanticipated and emerging threats and major events, including bushfires and floods.
- Consideration should be given to coordinating with Australian Government initiatives and legislation, including the listing of key threatening processes and recovery planning.
- There should be statutory obligations to take action to ensure threats are addressed.
- The promotion of sustainable land use practices and the provision of incentives and support to landowners in addressing threats is critical to success.

Topic 5 – Assessing the risk of extinction

- The Act needs to provide protection measures across biodiversity and ecosystems, including all taxa.
- A coordinated and standard approach to the assessment of extinction should be adopted.
- Standardised long-term monitoring programs need to be established to identify trajectories.
- Clear obligations to monitor, report on and implement actions for listed species should be included.
- Landholders should be supported by government to protect listed species and communities.
- A scientific committee needs balanced representation from community members and key experts who are independent from government.
- A legal mechanism that would facilitate learning from species extinctions needs to be considered.

Topic 6 – Biodiversity planning and reporting

- Create a statutory planning framework that involves the development of a key strategy, supporting policies and plans and mandatory public reporting requirements.
- Establish an independent review process that requires regular assessment of progress against the Act's principles and objectives.
- A state-wide biodiversity strategy should build on EPA's State of the Environment report by setting state-wide targets and prescribing actions required to achieve the goals of the Act.

Topic 7 – The Benefits of information

- The Act should provide a strong framework for government to partner and collaborate to achieve effective information management.
- Any new requirements for submitting data and reporting need to avoid duplication of effort.
- The Act should require monitoring and reporting on the status of biodiversity and the effectiveness of conservation actions, including any goals or objects established in a state-wide biodiversity strategy.
- Appropriate cultural protocols with First Nations peoples must be put in place that respect the sharing of traditional knowledge.

Topic 8 – Achieving 30 by 30

- Consider schemes in addition to the current native vegetation Heritage Agreements that will support a broad range of conservation outcomes.
- Introduce land covenants capable of excluding extractive industries to improve philanthropic and other private conservation funding opportunities.
- Multiple land use that maintains conservation values should be supported.
- Conservation and restoration needs to focus on unrepresented biomes, including private lands.
- Prioritise land protections based on a combination of western scientific and biocultural (traditional ecological knowledge) metrics.
- Establish a conservation trust to raise and manage distribution of funds for conservation and restoration.

Topic 9 – Biodiversity – a shared responsibility

- A duty of care requires clarity, accountability, enforcement and consequences to be effective.
- Decision making for environmental matter needs to be collaborative. It should include the views of First Nations peoples, individuals, community groups, private and public landholders, and various levels of government.
- Long term incentives are important to entice and support private land restoration and volunteer groups.

Topic 10 – Consequences of doing the wrong thing

- Penalties need to be consistent with similar crimes in other jurisdictions.
- Penalties must be set at levels that will discourage offending and be commensurate with the crime.
- Any evidentiary and forensic burden should aid in prosecutions.
- Third party judicial and merits review should be available for decisions made affecting the environment.
- Third party standing to commence proceedings should be available.
- Any provisions enabling reviews or proceedings by third parties need to be carefully considered to avoid the opportunity for spurious and vexatious claims.
- Public disclosure of offending should be considered.



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Other feedback received

Some organisations initiated their own campaigns, encouraging their members to submit email responses for the Act by using or modifying pre-prepared text. These organisations did not directly refer their members to complete the survey, but it is possible that individuals also submitted a survey response.

The suggested text has been included here as stated. While most of the emails received were direct copies of this text, some individuals also added personal insights or additional details.

Please note, these organisations also submitted detailed written submissions which can be viewed in Appendix 1.

Nature Conservation Society of South Australia

310 submissions received

I welcome the Discussion Paper about developing this new Act, released in late 2023, which highlights that biodiversity is our life support system, as well as adding beauty and wonder to our lives. Sadly, as the Discussion Paper points out, our biodiversity is in crisis, as reflected in the over 1,100 species we know to be on the brink of extinction here in South Australia.

However, I am concerned that an Act developed in line with that Discussion Paper would simply update South Australian law to the existing national approach to biodiversity conservation. This national law has been in place for 25 years but has not delivered much-needed improvements to Australia's biodiversity, so much so that it is currently being re-written.

I therefore believe the vision for this new South Australian Biodiversity Act must be much more ambitious than what is set out in the Discussion Paper. It should be based on a review of evidence regarding what has and hasn't worked for biodiversity protection and conservation through various laws in the past, which the Discussion Paper does not indicate has happened to date.

It should incorporate the most contemporary of concepts and tools for biodiversity protection and recovery. This was a critical gap in the Discussion Paper: for example, it did not contemplate the emerging field of recognising the legal rights of nature nor make reference to established and emerging market mechanisms that aim to protect and restore nature, such as those set up by the Nature Repair Market Act 2023.

The new Act should also be based on the strongest possible legal principles. It is worrying that the Discussion Paper foreshadows continuing reliance on the principle of 'ecologically sustainable development' when a recent review of biodiversity legislation in NSW questioned the ongoing use

this principle. Continuing to "trade-off" gains in social and economic spheres against biodiversity losses will see nature continue to decline. A formal review of the effectiveness of common legal principles in environmental law, including 'ecologically sustainable development' and the precautionary principle, should inform the development of this new Act.

Specifically, I believe a new Biodiversity Act needs to:

- Be funded – there is no mention of how the various measures and instruments suggested in the Discussion Paper would be funded. It takes resources – people, equipment and supplies, collaboration with and incentives for landowners, resources for administration of the various elements of the legislation and potentially even the direct acquisition of land and sea areas – to protect and restore biodiversity. Funding provided by the State Government for the health of our natural environment is paltry compared to investments made in other areas of public good, such as health and education. A significant increase in State Government investment will be needed achieve change for South Australia's biodiversity.
- Be powerful – the new Act must have power over other Acts that would conflict with the goal of biodiversity protection. In other words, this new Act must have legal primacy, empowering an Environment Minister to act in the interests of biodiversity, for example by refusing inappropriate development proposals that would have an unacceptable impact on biodiversity but that would be permitted under other laws, such as land-use planning or mining. This critical point is not addressed in the Discussion Paper and only briefly touched on in the FAQs.
- Genuinely protect precious natural places – there have been too many examples of protections for our National Parks and other protected areas being over-ridden in South Australia, for example to build private, luxury accommodation within Flinders Chase National Park or a rocket launching facility within a private conservation area (a Heritage Agreement). The Discussion Paper mentions methods for expanding the protected areas estate, however, does not address the critical issue of genuine protection for our existing, designated precious natural areas or proper resourcing for their management.

- Support large-scale restoration – given the current state of South Australia’s biodiversity, a law that simply ‘reacts’ to decline in our plants and wildlife and seeks to make developments ‘less bad’ is not adequate. The time has come for large-scale ecological restoration of our land and waters – a new Act should require, guide and support this important restoration work. The Discussion Papers only very briefly mentions restoration but does not signal that the new Act would establish a requirement for, and provide resources for and incentives to, achieve widespread, landscape scale restoration.

This new Act must seek to meet the depth and extent of the biodiversity crisis as faced by South Australians in the year 2024 and moving forward, including the exacerbating, and interacting, impacts of climate change.

Please seize this moment to create an Act that is far more ambitious, powerful and contemporary than what has been indicated to date.

I understand that a single piece of legislation alone cannot reverse the nature crisis or address climate change comprehensively. However, a strong Biodiversity Act will serve as a critical foundation for protecting, managing, and restoring our natural environment.

Birdlife Australia / Birds SA

492 submissions received

I support strong changes to South Australia’s new Biodiversity Act, to ensure South Australia’s relatively few remnant areas of native vegetation and habitat retain their quality to support biodiversity. And so that birds are conserved and restored into the future.

South Australia’s biodiversity is in crisis. Threatened birds in South Australia have decreased by more than 90% since 1985 on average (Threatened Bird Index 2020). This shocking decline is more than any other Australian State or Territory and supports a very clear need of retaining what is left and the need for clear actions to improve the situation from here forth.

I am passionate about improving the outcomes for South Australia’s birds, other wildlife, and natural ecosystems. I want the new legislation to include the strongest possible actions to conserve and restore biodiversity in the State. The new Biodiversity Act must:

- Clearly articulate that its primary objective is to protect, conserve, and restore biodiversity in South Australia, to guarantee no new local extinctions, and ensure the State’s remaining existing unique ecosystems are protected.
- Identify risks to biodiversity, including threats like habitat destruction, fragmentation and loss, and the effects of climate change, disease, biosecurity, and inappropriate fire regimes. The identified biodiversity risks should also include regional planning and ecological character factors, to conserve areas of significant biodiversity value – such as threatened species refuges – across South Australia. These refuges are the reservoirs for recolonisation of restored areas enabling future population growth
- Establish scientific standards to ensure all decisions that impact South Australia’s biodiversity are based on scientific evidence, and properly resource the Department to manage biodiversity effectively in the State in line with this evidence
- Ensuring the new Biodiversity Act requires all Government and private-sector developments avoid significant harms to local, regional, or State-wide biodiversity in South Australia, and ensure that approvals are only provided to proposals once all identified harms have been mitigated to an equivalent functional standard to what is being sacrificed.
- Empower South Australians to challenge decisions and report biodiversity breaches. It is critical to ensure the South Australian public, including First Nations people, are not disenfranchised from the State’s biodiversity outcomes, nor culturally-significant areas destroyed.

It is vital that we protect and recover South Australia’s biodiversity, and only a strong new Biodiversity Act can ensure we can achieve this critical goal.



Appendix 1

Detailed submissions from individuals, organisations, groups and representative bodies. Click the links below to read the full submissions.

- [Adelaide Zoo](#)
- [Association of Mining and Exploration Companies \(AMEC\)](#)
- [Australian Energy Producers](#)
- [Australian Institute of Landscape Architects](#)
- [Australian Land Conservation Alliance](#)
- [Biodiversity Council](#)
- [Biodiversity McLaren Vale](#)
- [Birdlife Australia](#)
- [City of Adelaide](#)
- [City of Marion](#)
- [City of Onkaparinga](#)
- [Community Alliance SA](#)
- [Conservation Council SA](#)
- [Electranet](#)
- [Environment, Natural Resources and Energy Law \(ENREL\) Research Unit, Adelaide Law School](#)
- [Environmental Defenders Office](#)
- [Friends of Parks KI Western Districts](#)
- [Grain Producers SA](#)
- [Green Adelaide Board](#)
- [Hills and Fleurieu Landscape Board](#)
- [Humane Society International](#)
- [Invertebrates Australia](#)
- [Kangaroo Island Conservation Landowners Association](#)
- [Landscape Boards of South Australia](#)
- [Limestone Coast Landscape Board](#)
- [Livestock SA](#)
- [Local Flora Society of SA](#)
- [Marine Life Society of SA](#)
- [Member for Waite](#)
- [Mid Torrens Catchment Group](#)
- [Mt Barker District Council](#)
- [Mt Barker District Residents Association](#)
- [National Environmental Law Association](#)
- [Native Vegetation Council](#)
- [Nature Conservation Society of South Australia](#)
- [Nature Foundation](#)
- [Nature Play SA](#)
- [Parks and Wilderness Council](#)
- [Pastoral Board](#)
- [Premier's Climate Change Council](#)
- [Primary Producers SA](#)
- [SA Division of the Environment Institute of Australia and New Zealand \(EIANZ\)](#)
- [SA Native Title Services](#)
- [Save Our Wildlife](#)
- [Scientific Expedition Group](#)
- [South Australian Chamber of Mines and Energy \(SACOME\)](#)
- [South Australian Nature Alliance](#)
- [South Australian Veterinary Emergency Management \(SAVEM\) Inc](#)
- [South East City Residents Association](#)
- [The Nature Conservancy](#)
- [The Wilderness Society \(South Australia\) Inc](#)
- [Threatened Plant Action Group](#)
- [Trees for Life](#)
- [University of Adelaide's Environment Institute](#)
- [Wombats SA](#)
- [Yorke Peninsula Council](#)
- [Zoo and Aquarium Association Australasia \(ZAA\) and the IUCN SSC Centre for Species Survival: Australasia \(CSS\)](#)
- [Individual submission 01](#)
- [Individual submission 02](#)
- [Individual submission 03](#)
- [Individual submission 04](#)
- [Individual submission 05](#)
- [Individual submission 06](#)
- [Individual submission 07](#)
- [Individual submission 08](#)
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- [Individual submission 31](#)





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