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I am pleased to provide feedback from the Green Adelaide Board (Board) towards the Biodiversity Bill.

We recognise the immense challenges of protecting and reversing the decline of threatened species and critical habitats. With our list of threatened species expected to grow exponentially in the decades ahead, timely, practical and effective mechanisms that support biodiversity conservation and recovery are crucial. Accordingly, the Board supports the proposed focussed legislation that highlights the fundamental importance of biodiversity, aims to arrest its decline and also actively improves its protection and enhancement in the State.

Our key recommendations include, but are not limited to:

- Timely interim protections for threatened species and critical habitat (to expedite protections and create agility in protection processes).
- Key to the new Act's success will be its adequate resourcing, particularly for new processes outlined under Part 6.
- That the proposed guidelines for developments include detail of how proponents can demonstrate their endeavours genuinely avoid native vegetation clearance impacts and that any offsets improve biodiversity outcomes.
- That planning laws do not override biodiversity laws. Understanding that while there must be a balance between environmental and economic needs that mechanisms are in place to ensure significantly more weight is given to biodiversity in the planning scheme than currently exists.
- Review the SEB scheme through a new biodiversity policy as a matter of urgency.

The Board suggest that the following be recommendations be noted and considered:

Interaction with other Acts	• <i>Support consistency with other Acts – ensure planning laws do not override biodiversity laws</i> • <i>That efficiencies around development through the State Development Coordination and Facilitation Bill do not come at the cost of the environment.</i>
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Operation of the Act 6(5)	• <i>There is some concern about the power for the governor to put aside the whole Act at clause 6(5). The Board strongly urges that consideration for or a new provision be included in the Bill that states that regulations must be established under this section outlining what conditions would enable this section of the Act to be utilised.</i>
Objects of the Act	• <i>Support emphasis on not only protection of biodiversity, but the facilitation of restoration in the Objects and different sections of the Bill</i> • <i>Strongly support the directions in the objects of the Act, with regard to resilience to the impacts of climate change that includes supporting the mitigation and adaptation to the effects of climate change.</i> • <i>Consider that the Act includes a provision for a policy that specifically considers climate change adaptation.</i>
Principles Clause 8(a)	• <i>That this clause does not detract from established approaches to recovery activities</i>
General Duty Clause 11	• <i>Strongly support</i>
Part 3 Administration Governance	• <i>These four bodies be well resourced in order to be effective</i> • <i>Consider whether one First Nations member for each group provides adequate cultural safety.</i> • <i>Ensure committees consist of biodiversity advocates.</i> • <i>Ensure that the Scientific Committee is able to declare critical habitat in a timely manner</i>

Part 4 Native Plants	• Consider amendment of the 20 year timeframe on a sliding scale • Consider inclusion or planted native plants on private land • Consider that biodiversity entities are referenced appropriately to minimise confusion. • The Interpretations should also make clear that 'land' includes underground ecosystems • Removing or harming dead plants and plant materials should be regulated by the new Act • That the development of a new biodiversity policy in relation to SEBs, which will provide an opportunity to review how the SEB scheme should operate into the future is a high priority. • That the guidelines for proponents are clear that avoidance is the first step and that they can demonstrate their efforts on avoidance. • That offsets contribute to nature positive outcomes • The Act needs to be flexible enough to accommodate the immediate control and management of problematic species, whether native or non-native, as required under the LSA Act, including for currently undeclared or emerging weedy species.
Part 6 Threatened species, threatened ecological communities and other ecological entities	• That all these processes are well resourced to provide timely protections • The Board supports the provision in the Bill for a 'provisional listing' of species and ecological communities where appropriate however current requirements for provisional listing should facilitate precautionary and expedited interim protection of at-risk species • The Board welcomes the provision in the Biodiversity Bill for the protection of critical habitat through declaration by the Minister. It suggested that the eligibility for a declaration of critical habitat be expanded to include the



	<i>ability to declare the habitat of a provisionally listed species or threatened ecological community.</i>
Clause 70 Ecological entities list	• <i>Consider strengthening this clause to say that the Minister 'must' list critical habitats and not 'may'.</i>
Special legislative scheme Clause 83	• <i>Support but needs clarity on the Biodiversity Minister's influence on an EIS "referral" from the Planning Minister</i> • <i>That the Biodiversity Minister must consent to an EIS rather than comment.</i> • <i>That the update to SPP 4: Biodiversity, in the planning system also reflects the new biodiversity policy in relation to SEBs, which includes new guidelines being prepared.</i>
Concurrence of Biodiversity Act Minister Clause 165	• <i>Support this and ensure that the process for any referral is clear</i>
Part 10 State Biodiversity Plan, Biodiversity Register	• <i>Supportive but ensure that these mechanisms are well resourced</i> • <i>Could consideration be given to mechanisms around financing to support implementation of the Biodiversity Plan within the Bill</i> • <i>That there is a balance between planning and implementation</i>
Exclusions	• <i>Strongly supports expanding the application of the Native Vegetation Act to cover all known areas of native vegetation; or, clearly identified strategic biodiversity corridors in metropolitan Adelaide</i> • <i>That the Bill could exclude cultural burning from the regulations for clearance.</i>



Note that we have provided more detailed position statements for these recommendations at Attachment A.

Thank you for the opportunity to provide feedback to this important legislation and we are more than happy to discuss any or all of these issues with you at any time.

[REDACTED] n please contact [REDACTED] [REDACTED], Director Green Adelaide
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Yours sincerely

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Director, Green Adelaide on behalf of the Green Adelaide Board

ATTACHMENT A

GREEN ADELAIDE BOARD

POSITION STATEMENTS TO RECOMMENDATIONS FOR THE BIODIVERSITY BILL

Interaction with other Acts

The Board notes the intention to amend many other Acts relevant to the Biodiversity Act, which ensures a consistent approach to its effectiveness. Whether the Biodiversity Act has primacy over such legislation or whether other Acts need to be strengthened, the outcome of better and more visible recognition of biodiversity is crucial to the Act's successful outcomes. The Board is supportive of development of a clear framework that ensures loopholes are avoided and desired outcomes are realised.

In their submission to the proposed Biodiversity Act in 2024, the Environmental Defenders Office stated that Biodiversity conservation laws are unable to achieve their important objectives if they are undermined or overridden by land use laws (e.g. through excessive discretionary decision making, exemptions or lower than best practice policy settings). A similar observation was made in the context of the 5-year statutory review of the BC Act NSW. The Independent Review of the *Biodiversity Conservation Act 2016 – Final Report* noted challenges with balancing competing interests (e.g. economic, social and environmental) and suggested that biodiversity considerations needed to be given primacy in order to achieve the needed outcomes for biodiversity and future generations.

We also bring your attention to the State Development Coordination and Facilitation Bill (SDCF Bill) and its potential to override biodiversity laws. We understand that the SDCF Bill and the Biodiversity Bill are expected to be mutually reinforcing of one another's objectives and that the SDCF Bill's concept of State Development Areas offers a mechanism to proactively assess and steer development towards environmentally appropriate areas and can also be used to facilitate environmental outcomes (e.g. proactive guidance and planning of development and significant environmental benefit (SEB)/biodiversity conservation areas), which would in turn help to speed up development approval processes by directing proponents to the most appropriate areas.

While noting the recognition of the interaction of the SDCF Bill and the Biodiversity Bill, we are concerned that efficiencies around development do not come at the cost of the environment

Recommendation:

- *Ensure planning laws do not override biodiversity laws*
- *That efficiencies around development through the SDCF Bill do not come at the cost of the environment.*

Operation of the Act

The Board are concerned that the Governor can exclude the Act for certain parts of the State at clause 6(5), with no clarification of what circumstances the Governor would be able to use this. Could consideration be given to a new provision in the Bill that states that regulations must be established under this section outlining what conditions would enable this section of the Act to be utilised.

Recommendation

- *Consideration be given to a new provision in the Bill that states that regulations must be established under this section outlining what conditions would enable this section of the Act to be utilised.*

Objects of the Act

The Board welcomes that the Bill has included nature positive directions and a more active approach, through emphasis on not only protection of biodiversity, but has embedded the facilitation of restoration in different sections of the Bill. We welcome the singular focus in the objects of the Act on biodiversity.

We strongly support the directions in the objects of the Act, with regard to resilience to the impacts of climate change that includes supporting the mitigation and adaptation to the effects of climate change. While the Bill includes that the Minister must consult with the Premier's Climate Change Council before making an appointment to the proposed Biodiversity Council, it would be useful to highlight measures that actively contribute to climate adaptation.

Recommendation:

- *Consider that Bill includes a provision for a policy that specifically considers climate change adaptation.*

Principles of the Act

We note the intention at clause 2(8)(a) “will require embracing new and transformative ways of thinking and acting to support the environment”. While this is a good principle in theory, it does not typically negate the need for traditional established approaches to recovery activities that often simply need to be implemented (and to date have been simply hampered by a lack of resources).

Recommendation:

- *That this clause does not detract from established approaches to recovery activities.*

General Duty

The Board welcomes the introduction of a new general duty to ensure the protection of biodiversity is a continuous legal and social responsibility shared by everyone, which is very similar to the *Landscape South Australia Act 2019* (LSA Act). Understanding that any penalties for a lack of duty of care is dependent on the level of harm, it may be worthwhile considering how this duty of care is communicated to the wider community.

Part 3 Administration - Governance

Four governing bodies are proposed to be established under the Act including the Biodiversity Council, the Native Plants Clearance Assessment Committee, the First Nations Expert Biodiversity Committee and the Scientific Committee. Resources will be necessary to support this many committees and the proposed Council. It is further suggested that too many authorised bodies could inadvertently slow down effective management of threatened species or habitat protection and enhancement.

We welcome the inclusion of representation on all committees and the Council from First Nations people. It is also suggested consideration be given to cultural safety and whether one committee member provides enough cultural safety.

Consideration should also be given to ensuring that committees consist of advocates for biodiversity. It is totally appropriate that the group considers all sectors of interest, however, this should not perversely influence the main focus of the council/committees that is biodiversity conservation across the state. The inclusion of biodiversity advocates also reflects the focus of biodiversity outcomes in the Objects of the Bill.

Recommendations:

- *These four bodies be well resourced in order to be effective*
- *Consider whether one First Nations member for each group provides adequate cultural safety.*
- *Ensure committees consist of biodiversity advocates.*
- *Ensure that the Scientific Committee is able to declare critical habitat in a timely manner*

Part 4 Native Plants

Protection of plants more than 20 years old

The Bill provides a new measure aimed at protecting planted native plants more than 20 years old, excluding those in people's gardens or commercial forests. The Board suggests consideration of the following:

The timeframe of 20 years overestimates the time before native plants begins providing benefits. This is especially the case for fast grasses, shrubs, and fast-growing trees, which all develop into mature form quicker and have shorter lifespans than large slow growing trees (e.g. many Eucalypt spp.). It is suggested that planted native plants that are purposely contributing to conservation of species and communities are provided protection far sooner than 20 years, potentially with a scale based on type of plants (i.e. grasses protected at 1 year, shrubs protected at 3 years, trees protected at 5 years).

The exclusion of planted native plants on private land (i.e. people's gardens) would be a lost opportunity to protect existing mature trees. It also draws a distinction between the value placed on native plants, which essentially provide the exact same benefits. For instance, in a case of two planted 50-year-old River Red Gums, one in a private front yard and one on the street verge adjacent the front yard, there will be different levels of protection and therefore inherently different levels of perceived value. If planted native plants on private land are excluded, a longer timeframe could be placed on this, after which time they are provided the same protection as those planted on public land (i.e. grasses protected at 3 years, shrubs protected at 5 years, trees protected at 10 years).

Offsets

It is noted that certain types of development may not be able to avoid areas of high biodiversity value. We note that in these circumstances, it is anticipated that the Biodiversity Bill will provide guidance to achieve a significant environmental benefit (offset) through identifying areas where conservation actions will achieve the best outcomes.

While understanding that offsets are in place and penalties are increasing in some instances, we would like to emphasise the importance of increased penalties for greater harm, and also strongly advise that offsets still be included in addition to the penalty. We also reiterate that care be taken with the proposed mitigation hierarchy so as to not result in any perverse outcomes that

would undermine the protection of biodiversity through reduction of red tape for development. While recognising the intent of offsets, it is important that the use of offsets creates a nature positive future.

The Bill requires a proponent to have regard to, and give effect to, the mitigation hierarchy in accordance with new guidelines; we encourage that the detail of the guidelines includes how the proponent can demonstrate their endeavours to genuinely avoid and mitigate aspects of proposed development and that their offsets improve biodiversity outcomes. There needs to be greater consideration at the beginning of a planning project to ensure genuine avoidance and mitigation actions are implemented.

The Bill will require the development of a new biodiversity policy in relation to SEBs, which will provide an opportunity to review how the SEB scheme should operate into the future. This new policy is a high priority for the Board to ensure offsets are used to provide nature positive outcomes.

Inclusion of fungi and algae under the definition of plant

While Green Adelaide is supportive of the definition of ‘plant’ to include fungi and algae to allow for their protection under the Act, it is preferable that in a modern Biodiversity Act that all biodiversity entities are referenced appropriately. This should align with SA biological databases that are also being updated to capture the broader range of biological diversity of the state. The risk is that some taxa could be overlooked if they are not appropriately referenced. For example, the conservation of some taxa may be overlooked if their taxonomic grouping is not clearly defined (ie currently any vegetation list is unlikely to include fungi species in the area, so grouping many things under plants may have negative consequences).

Consideration of pest plants

There needs to be clarity on how the Board can deal with noxious or invasive native plants, particularly from interstate. The Act needs to be explicit on the basis for which exclusions or inclusions will be made. It is important that this clarity is provided in the Act which informs the associated policies and regulations. The Act also needs to provide the ability to respond rapidly to emerging threats from native plants that become invasive, and for those that need to be managed and are not currently declared for control. Any disruption to the continuity of management of invasive ‘native plants’ is a risk for the Board. There needs to be a clear and immediate process for the control of invasive or potentially invasive native plants that allows for the continuity of management by the Board and clear messaging for landowners or land managers who need to control these species.

Further recommendations are made in Appendix A below, which deal with interpretation of plants.

Recommendations:

- *Consider amendment of the 20 year timeframe on a sliding scale*
- *Consider inclusion or planted native plants on private land*
- *Consider that biodiversity entities are referenced appropriately to minimise confusion.*
- *The Interpretations should also make clear that ‘land’ includes underground ecosystems*
- *Removing or harming dead plants and plant materials should be regulated by the new Act*

- *That the development of a new biodiversity policy in relation to SEBs, which will provide an opportunity to review how the SEB scheme should operate into the future, is a high priority.*
- *That the guidelines for proponents are clear that avoidance is the first step and that they can demonstrate their efforts on avoidance.*
- *That offsets contribute to nature positive outcomes.*
- *The Act needs to be flexible enough to accommodate the immediate control and management of problematic species, whether native or non-native, as required under the LSA Act, including for currently undeclared or emerging weedy species.*

Part 6 Threatened species, threatened ecological communities and other ecological entities

The Biodiversity Bill outlines a new process for listing threatened species, threatened ecological communities and other ecological entities. The Board supports the concept of systematically assessing and listing threatened ecological communities (similar to the process used for threatened species) and bring your attention to the need to ensure sufficient resourcing for listing processes. This is needed to ensure adequate protections for threatened species and communities including the proposed critical habitat declaration, can be applied in a timely manner (e.g. regular review of these lists).

The Board considers the provision in the Bill for a ‘provisional listing’ of species and ecological communities imperative. However, it is also considered that processes for listing requires a clear and streamlined process, it is important that:

- The documentation requirements for provisional listing are not overly burdensome and instead facilitate precautionary and expedited interim protection of at-risk species. It is suggested that a minimum amount of information be required to support provisional listing and that this should primarily focus on the IUCN criteria being met that is justifying the concern. In addition, the resourcing for provisional listing should be commensurate with the volume and urgency of these interim protection requests.
- The current state and national processes for listing species is often exceptionally lengthy and therefore often inadequate for the effective protection of threatened species and habitats. These processes should be sufficiently resourced so that they are more effective in the protection of at-risk species and communities.

In addition, the Board welcomes the provision in the Biodiversity Bill for the protection of critical habitat through declaration by the Minister. We support the ability to declare critical habitat including the proposal to amend *Planning, Development and Infrastructure Act 2016* (PDI Act) to allow the Minister responsible for the PDI Act to amend the Planning and Design Code in order to include information about any such declared critical habitat.

We welcome that this clause allows the declaration of critical habitat to be expedited. However, given the timeframe of two years for moving from provisional listing to listing, and a further 6 months from the date of listing for the consideration of the declaration of critical habitat, there are concerns that critical habitat is likely to be lost before it is eligible to be declared. It is also suggested, that the requirements for a declaration of critical habitat be expanded to include the ability to declare the habitat of a provisionally listed species or threatened ecological community.

The Board suggest that the Act expands its notion of provisional listing that includes new information on any threatened species, and not only in certain circumstances, for example, where extinction risk is expected to have changed after a natural disaster or biosecurity event.

The precautionary approach is highly recommended for all threatened species, with the absence of detailed information not limiting the provisional listing process.

The Board is also supportive of enabling the minister to enter into voluntary agreements with landowners to facilitate the maintenance of critical habitat, including through biodiversity agreements.

Recommendations:

- *That these processes are well resourced to provide timely protections.*
- *Provisional listing should facilitate precautionary and expedited interim protection of at-risk species*
- *Eligibility for a declaration of critical habitat be expanded to include the ability to declare the habitat of a provisionally listed species or threatened ecological community*
- *Consider strengthening clause 70 to say that the Minister 'must' list critical habitats and not 'may'.*

Under Part 6 of the Bill - Interaction with land-use planning and planning laws.

It is well recognised that habitat destruction from development is one of the key threats to biodiversity and particularly in the metropolitan regions. How that is managed and the balance between development and the environment achieved is crucial. We note and support that there could be opportunities for the Biodiversity Act to support the operation of the State Development Coordination and Facilitation Bill (SDCF Bill), including through assisting in identifying areas of high biodiversity value that should be avoided or only developed with careful consideration and by contrast, areas with less biodiversity value.

The Board notes that there is recognition of this balance in the Bill through proposed amendments to the PDI Act, our comments on this are as follows:

Special Legislative Scheme

We welcome the proposed amendment within the PDI Act to allow the Biodiversity Act to be declared a Special Legislative Scheme with a corresponding State Planning Policy (SPP) to be established. We understand that a State Planning Policy already exists for Biodiversity (SPP 4), but it is envisaged that this may need to be updated, after the introduction of the Biodiversity Act, to reflect any new requirements.

We note that the effect of declaring the Biodiversity Act to be a Special Legislative Scheme for the purposes of the PDI Act, (of which the Board welcomes) will also mean that where an EIS is required for a proposed development such as an Impact Assessed Development it must include a statement of the extent to which the expected effects of the development are consistent with the state planning policy for biodiversity.

We also note that by having the Biodiversity Act declared a Special Legislative Scheme within the PDI Act, that after the EIS has been prepared, the Planning Minister must refer the EIS to the Biodiversity Minister for comment. However, does a comment from the Biodiversity Minister prevent the PDI Act from overriding a decision based on protections of biodiversity? There is an opportunity for Biodiversity conservation laws to achieve their important objectives if

mechanisms are in place to ensure significantly more weight is given to biodiversity in the planning scheme than currently exists.

While these are welcome additions it is difficult to know how effective these measures will be, and the preference is that the Biodiversity Minister consent to the proposed development rather than provide comments.

Recommendation:

- *To provide clarity on the Biodiversity's Minister influence on an EIS "referral" from the Planning Minister.*
- *That the Biodiversity Minister must consent to an EIS rather than comment.*
- *That the update to SPP 4: Biodiversity, in the planning system also reflects the new biodiversity policy in relation to SEBs, which includes new guidelines being prepared.*

Concurrence of Biodiversity Act Minister

We welcome the amendment to the PDI Act to require the Biodiversity Minister to consent to any amendment to the Planning and Design Code that affects an overlay or zone, prescribed by regulation, to be an overlay or zone of importance to biodiversity. It is noted that no such mechanism currently exists within the PDI Act for other zones or overlays of environmental significance (e.g. coastal areas overlay, hazards bushfire overlays etc.) to be referred to another Minister in this manner. Therefore, while the proposed amendment to PDI Act (section 73 (6)) is supported in principle, the practical application of this process is unclear. Further details on how this 'referral' process would occur are required, to ensure the requirements are not too onerous or time consuming for the department.

Recommendation

- *That the process for any referral is clear*

Part 10 State Biodiversity Plan, Biodiversity Register

We welcome that the Bill introduces a number of tools such a State Biodiversity Plan with greater access to state biodiversity data to inform land use decision making, which is sensitive to biodiversity values.

An improved threatened species listing process, improved data collation and the spatial mapping of biodiversity priorities through a State Biodiversity Plan could assist land use planning decisions by identifying biodiversity hotspots that should be avoided for housing development or where innovative design will be required. These considerations will be used to inform planning and land use decisions at the early zoning stage, rather than later at the development assessment stage. To support this early information for land use decisions it is crucial as stated above, that planning laws do not override biodiversity laws and that such mechanisms as critical habitat protections are timely and well resourced.

While many of these tools are welcomed the key is to resource these tools so as to be effective. The right balance between planning and implementation is also important. For instance, the development of a Biodiversity Plan needs to be at a high level as information around species is dynamic, and such a plan needs to be developed in a way that is current. Caution is needed around too much planning and not enough implementation.

Recommendations:

- *That these mechanisms are well resourced*
- *Could consideration be given to mechanisms around financing to support implementation of the Biodiversity Plan within the Bill*
- *That there is a balance between planning and implementation*

Exclusions in the Bill***Remnant vegetation and plants in the metropolitan area***

As noted above the Bill includes a focus on restoration and enhancement of biodiversity habitat. Maintaining existing remnants remains critical, especially given climatic drivers that will further impact on biodiversity. We note that remnant vegetation is dealt with through existing mechanisms under the Native Vegetation Act requirements, which are to be absorbed in the new Biodiversity Bill. The boundaries of the Native Vegetation Act remain, which largely excludes the metropolitan area of the Green Adelaide Region.

We reiterate that to address habitat loss and biodiversity decline it is crucial that we not only protect the remaining remnant vegetation in metropolitan Adelaide, but also support regeneration and revegetation as a matter of urgency.

Suggested that the Bill consider extending the inclusion zone for the protection of remnant native vegetation within the Adelaide metropolitan area. This could result in better protection for the small amount of remnant native vegetation left in metropolitan Adelaide, including scattered trees.

Recommendation:

Green Adelaide strongly supports expanding the application in the new Bill to cover all known areas of native vegetation; or, clearly identified strategic biodiversity corridors in metropolitan Adelaide.

Cultural burning

The Bill makes provision for a policy to be established for cultural burning of native plants at clause 161(4). This allows for the Minister to choose a policy direction, however could there be consideration of making explicit provision for cultural burning to be excluded from clearance regulations?

Recommendation:

- *That the Bill excludes cultural burning from the regulations for clearance.*

Appendix A**Schedule 3 Principles of preservation of native plants**

Schedule 3 lists the factors that the new assessment body should take into account when deciding whether native plants should be preserved or may be cleared. This is a key aspect of the Bill in terms of factors that should be taken into account, related to water resources and water affecting activities (as well as other aspects of Green Adelaide's business). This list could

be amended in terms of its implications for the assessment of the impacts of plant clearance. In particular:

- Point (f) relates to plants growing in wetland environments. This should be broadened to include other significant water-dependent ecosystems and aquatic environments and water-dependent subsurface ecosystems.
- Point (g) relates to the contribution of native plants to the amenity of the area in which they are growing. This should be amended to specifically mention the importance of cooling and greening of urban spaces, as these effects are more than just aspects of amenity and are not covered elsewhere in the list.
- Point (h) relates to the effects of clearance on soil erosion and salinity. This should be broadened to include soil or sediment erosion and salinity and soil structure.
- Point (i) relates to the effects of clearance on water quality. This point should make clear that relevant water quality parameters can include chemical, pollutant, sediment and nutrient loads, temperature, oxygenation and conductivity (noting that ‘water quality’ is not defined in the Interpretations.)
- There is no reference to the benefits of shading/ cooling of watercourses provided by native plants (which is of increasing importance with climate change). This could be an additional factor to be taken into account.
- There is no reference to the importance of riparian vegetation, or its connectivity along watercourses. This should be an additional factor to be taken into account.

Interpretation issues

It is acknowledged that the change of terminology from ‘vegetation’ to ‘native plants’ facilitates the explicit application of the Bill to cover fungi and algae as well as other vegetation. However, there is an element of ambiguity (which was also present in the *Native Vegetation Act 1991* (NV Act)), which has not been addressed and could lead to confusion. In the Interpretations (Part 1 (3) of the Bill), native plant is defined in a singular way – i.e. ‘a plant of a species that is indigenous to Australia’. This singular meaning of ‘plants’ could be confusing when it is used in clauses such as that in Schedule 3 (a) ‘*Native plants are considered to be of particular value and should be preserved if they comprise a high level of diversity of plant species*’ It is difficult to see how a singular entity could be said to comprise a diversity of species.

It is suggested that the term ‘native plant/s’ could be used when the intention is to refer to a particular type or species, and the term ‘native plant communities’ could be used when the intention is to refer to a mixture of species.

The proposed interpretation of ‘plant’ could also be confusing. It states that:

Plant includes—

(a) *fungi; and*

(b) *algae; and*

(c) *flowers, seeds or any other part of a plant*

While technically correct that these are inclusions and not an exhaustive list, there is no other definition of ‘plant’ included in the Interpretations, so it may be confusing that the definition does not mention the more commonly-used meaning of plants (i.e. all plants other than fungi or algae).

To avoid confusion, it is suggested that these specified inclusions are incorporated into the definition of ‘native plants’.

Another issue is that the NV Act defines vegetation as including ‘*a plant or plants growing in or under waters of the sea*’. This has been omitted from the Biodiversity Bill. For the sake of clarity and to ensure that these plants are considered to be covered by the Act, it would be beneficial to specifically mention marine plants in the Interpretations.

To address the above concerns, the definitions could be amended to:

native plant means—

(a) a plant of a species that is indigenous to Australia growing on land (including land submerged by water) or under the sea, including all vascular and non-vascular plants, fungi and algae; or

(b) a plant of a class brought within the ambit of this definition by the regulations

Native plant community means a grouping of native plants comprising one or more species.

The Interpretations should also make clear that ‘land’ includes underground ecosystems, to ensure that subterranean fauna such as stygofauna and troglofauna are within the ambit of the new Act.

It is also noted that the interpretation of native plant excludes dead plants (unless prescribed by the Regulations). Dead plants and plant materials provide important habitat features for fauna and flora, and removing or harming these features should be regulated by the new Act.

Current NV Regs (Schedule 2) – permitted clearance where notification not required

We support reducing the clearance rules so that trees can be cleared within 3 metres of a house around existing prescribed buildings would mean better protection for native vegetation (noting that it is currently within 10 metres or closer).