

18 February 2025

The Hon Dr Susan Close MP  
Minister for Climate, Environment and Water  
sent via email: biodiversityact@sa.gov.au OfficeOfTheDeputyPremier@sa.gov.au

Dear Minister,

**RE: Trees For Life submission on draft Biodiversity Bill**

Thank you for the opportunity to provide feedback on the draft Biodiversity Bill.

South Australia's biodiversity is declining rapidly due to a combination of past and current pressure. We urgently need a transformative approach to how we address nature protection and restoration if we are to prevent the worst of the impending social, economic, and ecological impacts of a biodiversity crisis coupled with escalating climate change.

Fortunately, there is growing public support for strong action to protect nature. The Biodiversity Council's 2023 Survey indicated that the vast majority of Australians believe nature is important to them, with 89% stating it would influence how they vote. There is also majority support for strengthening environmental laws.<sup>1</sup>

There are a number of elements of the draft Biodiversity Bill are supported by Trees For Life; these are outlined below along with our recommendations for improvements. However, although the draft Bill provides incremental improvements to biodiversity protection mechanisms, it does not go nearly far enough ***to protect, restore and enhance biodiversity such that there is an improvement in the state of biodiversity at all scales*** – a key Object of the draft legislation. The Bill also has much focus on what persons must not do, and the oversight of this, but lacks balance in terms of empowering the community and land owners to actively improve biodiversity.

**Areas of support and recommendations for improvement**

- The creation of a Biodiversity Council, First Nations Committee and other proposed governance arrangements are largely supported. We recommend changes to:
  - Strengthen the powers of Biodiversity Council including the ability to create SEB policy and recommend funding requirements for the Biodiversity Plan;
  - Retain Peak Body (i.e. Conservation Council SA) nomination of membership of the Biodiversity Council (as per the current NVC).

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<sup>1</sup> Biodiversity Council, 2024 Biodiversity Concerns Report. A survey of community attitudes to nature conservation, March 2024  
[https://biodiversitycouncil.org.au/admin/uploads/2024\\_Biodiversity\\_Concerns\\_Report\\_f6ea3e5ee1.pdf](https://biodiversitycouncil.org.au/admin/uploads/2024_Biodiversity_Concerns_Report_f6ea3e5ee1.pdf)

- The requirement for a Biodiversity Plan underpinned by spatial prioritisation is strongly supported, however:
  - The Biodiversity Plan must be fully funded.
  - Its influence must be strengthened by requiring persons/bodies to make decisions inline or consistent with the State Biodiversity Plan instead of simply 'having regard and where appropriate giving effect to' the Plan.

We also support the following features of the draft Bill:

- The introduction of provisions for listing threatened ecological communities and critical habitat and preparing threat abatement plans are positive inclusions.
  - Whilst we welcome additions, the Minister should be compelled to declare these communities and habitats rather than it being discretionary. Critical habitat should also recognise less tangible habitat features such as unobstructed flight paths.
  - Similarly, we recommend that a 'key threatening process' MUST have a threat abatement plan developed within a specified time-frame, mechanisms to fund their implementation and transparent progress reporting.
- The protection of native plantings is supported:
  - Trees For Life recommends that protections be introduced at 10 years (not 20); a time-frame within which most plantings are well established and starting to provide habitat benefits. There is significant public and private investment in native plantings; these revegetation areas provide increasingly important resilience to climate change impacts on ecosystems and productive systems.
  - We also support Biodiversity and Conservation Agreements on revegetated land where minimum biodiversity standards are achieved
- Improved recognition and value placed on First Nations cultures; formal engagement in a way that is respectful; and integrating First Nations knowledge into decision making on biodiversity.
- The establishment a Biodiversity Register to improve public understanding and information sharing.
- The right of community involvement through third party standing for civil enforcement of breaches of the Act.
- Tougher penalties for breaches of the Act.
- Requiring native vegetation clearance applications to reference the mitigation hierarchy.

## **Objects and Principles**

While broadly supportive of the Objects of the Bill, Trees For Life recommends:

- amending object 7(b): to protect, restore and enhance biodiversity to prevent further loss, and facilitate repair and regeneration of biodiversity at all scales,
- separating/amending object 7(c): to ~~inform~~ (replace with *influence*) land use planning and decision-making frameworks; and to build the resilience of biodiversity, including resilience to the impacts of climate change,
- add an object: to empower the community and individuals to lead and participate in biodiversity conservation and restoration,
- introducing a new principle that recognises that biodiversity is essential to all of life, including human wellbeing, and
- adding a precautionary and uncertainty principle. Such a principle would require decision-makers to give biodiversity the benefit of any doubt and compel action even if information is limited and/or imperfect.

## **How the legislation needs to be strengthened**

- Ensure **primacy** for this legislation vis-à-vis other legislation; to ensure real protection for nature; not the ability for protections to be subordinate to other Acts where there is conflict. Primacy is absolutely critical to the success of this legislation.
- Establish the ability for the responsible Minister to refuse specific proposed actions that will have an **unacceptable impact** on biodiversity that may be received and considered through other decision-making systems, such as land-use planning.
  - provide for a definition of what an “unacceptable impact” of development proposals on biodiversity would be
- We are greatly concerned there has been no reform to the current offset / SEB process to minimise clearance and ensure offsets are genuinely achieving a ‘nature positive’ outcome.
- The Act must establish a clear mechanism for **funding** the large-scale ecological restoration that we know is necessary to improve the state of biodiversity. Estimates suggest that restoring over-cleared landscapes to ecologically functional levels—up to 30%, in line with Australia’s commitment to the Kunming-Montreal Convention on Biological Diversity—will cost at least \$4 billion per year for the entire country. South Australia requires approximately 10% of this amount, or \$400 million annually. The national Biodiversity Council recently recommended ‘a realistic increase’ in annual government investment of around \$100 million per annum. [1]

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[1] Biodiversity Council,  
[https://biodiversitycouncil.org.au/admin/uploads/Biodiversity\\_Council\\_2023\\_SA\\_Biodiversity\\_in\\_a\\_Changing\\_Climate\\_FINAL\\_REPORT\\_with\\_links\\_604862e258.pdf](https://biodiversitycouncil.org.au/admin/uploads/Biodiversity_Council_2023_SA_Biodiversity_in_a_Changing_Climate_FINAL_REPORT_with_links_604862e258.pdf)

Furthermore, climate change impacts are already increasing the costs and uncertainty of habitat restoration, and this will only increase as the extent and impact of extreme weather events grow.

We urge the establishment of a funding mechanism within the Act to deliver the Biodiversity Plan and to incentivise private conservation in South Australia. Ideally, this fund would include public and private funding (for example through a levy on developers) and be used to leverage philanthropic investment.

- Retain the current NV Act definition of native plants as those species that are indigenous to SA. The proposed definition of any plant native to Australia devalues SA's flora. It would mean Bush For Life / Friends Groups could not promptly control invasive native plants from elsewhere in Australia that threaten local biodiversity, instead having to wait for a time and resource consuming approval process for each site. There may also be a perverse incentive to use cheaper seed from cultivated interstate species as they would qualify as SA native plants under the definition. Rather than a questionable blanket assumption that any Australian native plant provides habitat value, the preferred approach would be to methodically develop a 'positive list' of non-SA native plants that do provide net ecological value and should have clearance protection.
- Retaining the current NV Act definition which includes the protection of dead trees where they provide critical habitat for at risk species and improving the protections for scattered and paddock trees in recognition of their value.
- Renaming the *Biodiversity Restoration Fund* to the *Biodiversity Offset Restoration Fund* (truth in naming).
- Retaining appropriate firewood controls.
- Requiring the Minister (not at their discretion) to declare new listings of threatened ecological communities and critical habitat.

We look forward to working with you over the coming weeks to strengthen the Bill and ensure South Australia puts forward transformative and world-leading legislation to underpin South Australia's approach to nature protection and restoration and secure its future.

It would like further information about our submission, please contact [REDACTED] on [REDACTED]

Yours sincerely,

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President