

SA Inquiry into Biodiversity - How well do the Inquiry recommendations align to APEEL's thinking?



The information in this presentation is of a general nature only and not a substitute for legal advice.

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Background

2015/2016 - SA Parliamentary Environment, Resources and Development Committee conducted an inquiry into South Australia's biodiversity.

2017 Report sets out findings and recommendations regarding the State's regulatory and policy framework to determine whether it appropriately supports terrestrial and marine ecological processes, biodiversity values and abates species extinction.

Meaning and Value of Biodiversity

Variability among living organisms from terrestrial, marine and other aquatic ecosystems and the ecological complexes of which they are part (Convention on Biological Diversity).

Has intrinsic value which in turn provides services to people – “ecosystem services” which include:

- food
- genetic resources
- purification of air and water
- pollination
- seed dispersal and pest control
- soil generation and fertilisation
- detoxification and decomposition of wastes
- stabilisation of climate



South Australia's Declining Biodiversity

SA State of Environment Report (2013):

- native vegetation extent and condition is declining
- status of threatened species and ecological communities is poor and declining
- positive response from six indicator species but a negative response from another six
- net increase in the number of endangered and vulnerable species and ecological communities since 2008



Key Finding

Relevant laws do not provide optimum biodiversity outcomes

- Fragmented - leads to a lack of cohesion and consistency, duplication and inefficiency which makes it difficult to take a landscape approach to conservation or to identify strategic opportunities and risks
- Out of date
- Fail to properly consider biodiversity protection



(a) Out of date legislation which lacks cohesion and consistency

Lack of transparency in the application of underlying regulations to environmental legislation

Example: clearance exemptions under the Native Veg Act are set by regulation. Much clearance occurs as a result of self-assessment.

Inadequacies relating to enforcement and compliance with environmental legislation

Example: National Parks and Wildlife Act focusses on out of date penalties such as fines

(b) Inadequate and incomplete processes for identifying and protecting at-risk elements of the environment

Example: National Parks and Wildlife Act

- Lacks biodiversity object
- Lacks clarity as to coverage of biota
- Does not detail processes for listing ecological communities, populations, critical habitat, key threatening processes
- Does not detail processes for activities to protect native species such as conservation actions and recovery plans
- Only consequences of listing are the take provisions

(c) Inadequate consideration of biodiversity conservation in legislation that regulates human activities

Biodiversity loss is primarily the result of human activity, such as land clearing, fisheries, land management practice, development decisions (mining, residential and commercial building etc.) and infrastructure development (roads, bridges, dams etc.)

Example: planning laws generally do not facilitate a proper evaluation of the impacts of proposals on biodiversity, in part due to a failure to include biodiversity considerations across all aspects of decision making

Environment and planning legislation interface – reform

- State planning policy on biodiversity
- Regional plans should look to promote biodiversity protection including planning for and facilitating recovery
- Regional plans should map biodiversity values and consider them at the whole of landscape scale
- Consideration of impact assessed development should include biodiversity protection
- Wider application of the offset scheme under the NV Act
- All clearance associated with change of use could be dealt with under new planning laws
- Possibly amend current planning laws to ensure that biodiversity objectives etc are reflected in current plans, instruments and policies

Common responsibility and individual accountability- pathway for reform

- Shared responsibility for biodiversity outcomes, supported by individual accountability
- 3 stage approach to law reform
- Incorporate aspects of strategic environmental assessment in the preparation of statutory planning policies eg Planning and Design Code
- Clear government policy to underpin legislative reform ie replacement of No Species Loss Strategy

Stage 1 - Improve operation of current Acts

- Modernise language and concepts
- Incorporate modern compliance tools eg civil penalties and improve consistency and proportionality in penalties where appropriate.
- List ecological communities, populations, critical habitats and introduce consequences for listing, at least recovery and management plans

Stage 2 – Improve operational links between Acts and improve landholder support and community involvement

- Increase consistency in how non-environmental laws take account of biodiversity considerations
- Improve information flow and links between environmental and non-environmental laws
- Create effective consequences of listing which would flow into non-environmental laws
- Require Regulators eg planning department to refer to the environment department assessment of activity likely to have a significant adverse effect on biodiversity
- Improve protected area management, landowner support and community incentives

Stage 3- enshrine in legislation that biodiversity is everyone's business

- General duty to ensure that activities regulated under eg planning laws do not have an adverse impact on biodiversity
- High level assessment of policies, programs and proposals to ensure biodiversity considerations underpin policy and development decisions
- Require preparation of recovery or threat abatement plans and incorporation of these plans into decision-making
- Separate laws for park management and protection of biodiversity on private land

Targeting the management of threats, ecological resilience and restoration

Current threats to biodiversity:

- Habitat loss and fragmentation (due to development and changing land-use)
- Pest plants and animals
- Control burn regimes

Future threats to biodiversity:

- Climate change impacts and interaction with existing major threats (e.g. urbanisation and changing land use).

Targeting the management of threats, ecological resilience and restoration

Recommendations:

- More stringent vegetation protection, better informed and enacted control and management strategies of known pest plants and animals, and a revision of burning regimes.
- Preparing for and managing future threats will require knowledge of projected changes and pro-active preparation for such changes.
- Identify and protect critical climate refugia for species of conservation concern – includes broad, State-scale modelling and fine, local-scale modelling

Community engagement

Recommendations:

- Community has the right to be involved in decision-making processes and on-ground actions
- Should be incentives to maintain volunteers as they are essential to conservation efforts
- Need for funding/incentives/stewardship programmes for biodiversity conservation on private land
- Need for a long-term and land-scape scale approach to biodiversity conservation

APEEL's work and the Inquiry-common themes

- Entire community has rights and responsibilities in relation to protection of the environment
- Environmental protection should involve a whole of landscape approach
- Environmental protection laws need to be robust - include clear goals, principles and norms eg duty of care and should link strongly with each other and with other relevant non-environmental laws
- Environmental protection should be a central consideration in decision making across all levels of government