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Draft *Biodiversity Bill 2025*

Submission to the Department of Environment & Water

February 2025

South Australian Chamber of Mines & Energy

The leading industry Association representing the resource and energy sector in South Australia.

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1. Introduction

The South Australian Chamber of Mines & Energy (SACOME) is the leading industry association representing resource and energy companies with interests in the South Australian resources sector, including minerals, energy, extractives and petroleum.

SACOME welcomes the opportunity to provide this submission to the Draft Biodiversity Bill 2025 (the Bill) consultation process and thanks the Department of Environment & Water (DEW) for its ongoing engagement with SACOME and its member companies since commencement of public consultation in 2024.

SACOME's [Economic Contribution Study](#) analysed the expenditure patterns of 15 major operating member companies throughout 2021/22 and quantified the resource sector's contribution to the South Australian economy.

The Study found that 15 member companies, comprising some of the most significant industrial entities in South Australia, **contributed \$10.7 billion in direct and indirect spending** to South Australia, **equivalent to 8.3% of Gross State Product, or one dollar in every twelve.**

These member companies are also responsible for the following economic contributions to the State:

- Directly employed 7,825 full-time jobs and supported the employment of 42,832 full-time jobs in total; or 1 in every 14 jobs are supported by the resources sector.
- Paid \$1 billion in wages and salaries to direct full-time employees, representing an average salary of \$133,672 per annum; significantly higher than the average South Australian salary of \$77,800 per annum.
- Direct spending amounted to \$5.3 billion, which included \$3.75 billion in purchases of goods and services from over 2,851 local businesses.
- Paid \$431 million to the State Government in royalties, stamp duty, payroll tax, and land tax.
- Provided \$14.7 million to 197 different community organisations, funding health, education, arts, sporting groups, and Indigenous communities.

SACOME recognises that the aim of the Bill is to:

- Strengthen protections for threatened species and critical habitats and facilitate ecosystem restoration across the State.
- Embed biodiversity restoration as a 'key pillar' alongside biodiversity protection; and

- Support economic opportunities linked to biodiversity recovery and position South Australia as a leader in sustainable land management and restoration economies.

SACOME also acknowledges that the Bill is intended to enable 'earlier, clearer and more transparent decision-making processes by streamlining regulations and reducing complexity.'

SACOME observes that the 153-page Bill creates a range of new administrative bodies, plans, policies and procedures. SACOME further notes that significant parts of the legislative framework proposed by the Bill will be delegated to subordinate legislation or policy, with no operational detail provided in the consultation package.

Resources sector activities are subject to strict environmental controls and adherence with environmental laws and obligations is a key operational tenet for SACOME's member companies.

The resources sector makes major investments in skilled personnel to ensure compliance with these requirements, with the result being that resources sector companies hold significant environmental and biodiversity expertise and understanding.

SACOME raises particular concerns that the Bill is informed by an approach that actively excludes key economic sectors like the resources sector from participation on representative bodies and in consultation processes set out by the Bill.

In particular, SACOME notes that the Bill proposes to preference the views of some sectors – principally the primary production and conservation sectors, while excluding the views of others.

Given the responsibility for biodiversity management is shared across the whole of the community, it is unclear why such an approach has been adopted under the proposed Bill.

SACOME expresses concern that such an approach has the potential to lead to partially informed outcomes in the area of biodiversity that don't account for either the expertise or operational reality of major economic sectors like the resources sector.

SACOME also notes that the Malinauskas Government has set an ambitious economic development and housing policy agenda and it is unclear how (beyond passing reference to interaction with the State Development Coordination & Facilitation Act) the Bill is likely to impact the delivery of this agenda.

After careful review of the Bill, and noting its length and complexity, SACOME submits that greater clarification regarding its intended operation is required before it can be supported.

SACOME cautions against rushing this process and does not support introduction of the Bill to Parliament before further review and clarification has been undertaken.

2. General Comments on the Draft *Biodiversity Bill 2025*

SACOME provides the following general comments on the Draft Biodiversity Bill 2025 (the Bill).

- SACOME submits that a four-week consultation window for the Bill is inadequate given its length and complexity. SACOME expresses concern at the rushed nature of this consultation process and submits that further work is required to clarify how the Bill is intended to operate, and its likely impact on key economic sectors.
- SACOME submits that the new 'general duty' proposed by the Bill has the potential to significantly expand processes for the assessment of environmental impacts of projects. Greater operational detail is sought in this regard.
- SACOME observes that the objects and principles of the Bill are informed by a narrow, exclusionary approach in contrast to those of the Landscape SA Act.
- SACOME notes regulatory overlap between proposed Bill and existing legislation (particularly the Landscape SA Act which will not be absorbed or repealed by the Bill), resulting in legislative duplication.
- SACOME notes that the resources sector has consistently been excluded from consultation processes under the Bill. SACOME notes that the views of the primary production and conservation sectors have been given primacy by the Bill and expresses concerns over the adequacy and balance of advice to the Minister and of consultation processes mandated by the Bill.
- It is unclear whether the Bill proposes to alter the Multiple Land Use Framework in favour of giving primacy to biodiversity conservation and restoration outcomes. If so, this represents a major departure from existing land use practice in South Australia. Further clarification on this point is required.
- SACOME seeks confirmation that Biodiversity Agreements and Conservation Agreements are not intended to restrict resources sector activities on land to which they apply. SACOME seeks to rule out that they will operate as effective moratoria for resources sector activities on private land.
- Much of the Bill's operational detail is deferred to subordinate legislation, meaning a full understanding of how the Bill operates cannot be obtained via the consultation package provided by DEW.
- SACOME notes the absence of transitional provisions in the Bill and highlights the importance of resolving this oversight.
Given that the Biodiversity Act is intended to replace the Native Vegetation Act 1991 (NV Act), it is critical for the purposes of continuity that the Bill contain transitional provisions that ensure each consent and approval granted under the NV Act are

deemed to be consents and approvals granted under the new Act (including approvals of various management plans that provide for a significant environmental benefit).

- SACOME notes the expanded Biodiversity Council and associated Committee structure to support administration of the proposed Bill, with the Council and Committees holding responsibility for determining policies and procedures. SACOME notes that detail regarding processes for appointment of members to Committees is deferred to subordinate legislation and has not been provided in the consultation package.
- SACOME notes that the Biodiversity Council and Committees structure creates new administrative arrangements. While the Bill sets out functions for these entities, it is silent on timeframes for provision of advice and decision-making raising questions about whether these new structures will result in increased red-tape and approvals timeframes both for DEW and for other government agencies bound by the proposed Bill.
- SACOME notes that no right of review or appeal against decisions of the Native Plants Clearance Assessment Committee (NPCAC) on clearance applications has been included in the Bill. Rights of review or appeal provide a level of independent oversight of executive decision making which promotes public confidence in the decisions and leads to better administration of the legislation. SACOME submits that rights of appeal to the Environment, Resources and Development Court on decisions by the NPCAC should be included in this Bill.
- SACOME observes that a new SEB scheme is to be developed by the Minister under the Act, with potential for changes in cost and criteria which will be the subject of consultation. SACOME submits that consultation with the resources sector should be included as part of this process.
- SACOME notes that no detail on how the Bill is intended to interact with the State Development Coordination & Facilitation Act is provided by the consultation package and seeks further information in this regard.
- The mitigation hierarchy embedded in the Bill accords with existing practice and is given in-principle support.

3. Comment on Draft *Biodiversity Bill 2025* by Section

Section of Bill	Comment	SACOME Position
Part 1 - Preliminary		
s.3 – definition of 'Culturally Significant Biodiversity Entity'	<p>Newly introduced term/concept that will be operationalised via a Biodiversity Policy that is consistent with the objects and principles of the Act; and with regard to the 'general duty' established by the Act (per s.161 of the Bill).</p> <p>Note that the Biodiversity Policy development process includes public consultation which is supported, however, no operational detail on this element of the Bill has been provided as part of the consultation package.</p>	Seek further information.
s.3 – definition of 'biodiversity/biological diversity'	<p>Biodiversity/biological diversity means "the variety of life forms represented by plants, animals and other organisms and micro-organisms, the genes that they contain and the ecosystems and ecosystem processes of which they form a part".</p> <p>Advice from SACOME members is that this is a very broad definition which is likely to problematic when it comes to forming the foundation of a legal duty.</p>	Seek further information/clarification.
s.3 – definition of 'ecological community' and 'ecological entity'	<p>ecological community means an association of co-occurring native species that meets the criteria prescribed by the regulations for the purposes of this definition;</p> <p>ecological entity means a spatially delineated level of biological organisation that meets the criteria prescribed by the regulations for the purposes of this definition;</p> <p>Newly introduced terms that are operationally dependent on 'criteria prescribed by the regulations for the purposes of this definition'.</p>	<p>Seek further information.</p> <p>Support contingent on review of Regulations.</p>

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	Note that Regulations have not been provided for consultation so what criteria will apply to <i>ecological community</i> and <i>ecological entity</i> is not known therefore any support is contingent on review of Regulations.	
s.3 – definition of ‘SEB Scheme’	<p>SEB Scheme is not defined by the Bill but will be defined by policy at a future time. Definition provided is ‘significant environmental benefits scheme set out in the SEB policy’, with the SEB policy being a type of Biodiversity Policy which can be made by the Minister per s161 of the Bill.</p> <p>Note that the Biodiversity Policy development process includes public consultation which is supported, however, no operational detail on this element of the Bill has been provided as part of the consultation package.</p> <p>Detail of the proposed ‘SEB policy’, any changes to existing arrangements and likely operational impact is sought given the importance of the SEB Scheme to the resources sector.</p>	<p>Seek further information.</p> <p>Support contingent on review of SEB policy and understanding of how it will operate.</p>
Part 2 – Objects, principles & general duty		
s.7 - Objects	<p>The Objects of the draft Biodiversity Bill are:</p> <p><i>(a) to promote biodiversity conservation and restoration as a responsibility equally shared by all of society across all sectors and supported by individual accountability; and</i></p> <p><i>(b) to protect, restore and enhance biodiversity such that there is an improvement in the state of biodiversity at all scales and to build the resilience of biodiversity, including resilience to the impacts of climate change; and</i></p>	<p>Draft Objects not supported in full.</p> <p>Note legislative overlap between Objects of the Bill and the Landscape SA Act.</p> <p>Seek further information and clarification of intended changes to land</p>

	<p><i>(c) to identify and prioritise biodiversity assets for conservation and restoration across the State to inform land use planning and decision-making frameworks; and</i></p> <p><i>(d) to recognise and respect that First Nations persons are the enduring custodians of the lands and waters of the State and have a fundamental role in, and knowledge of, caring for Country, including in relation to conserving and restoring biodiversity; and</i></p> <p><i>(e) to ensure that interactions with, management of and use of biodiversity is sustainable and appropriate such that the current generation maintains or enhances the health and resilience of biodiversity for the benefit of future generations.</i></p> <p>The proposed objects are significantly expanded compared to the Native Vegetation Act 1991; and the National Parks and Wildlife Act 1971 (which does not contain an Objects section) noting that a key purpose of the Bill is to incorporate these Acts.</p> <p>SACOME also notes that the proposed objects will operate in addition to those of the Landscape South Australia Act 2019, with DEW's specific intent being to create a new legislative framework while also retaining the Landscape SA Act.</p> <p>SACOME notes that s.7(d) of the Landscape SA Act '<i>promotes, protects and conserves biodiversity, and insofar as is reasonably practicable, supports and encourages the restoration or rehabilitation of ecological systems and processes that have been lost or degraded, and promotes the health of ecosystems so that they are resilient in the face of change</i>'.</p> <p>SACOME notes the overlap between the Objects of the proposed Bill and the Landscape SA Act and reiterates its previously expressed concerns about legislative duplication as a result of this process.</p>	<p>uses before support can be provided.</p>
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	<p>SACOME notes that s.7(b) of the Landscape South Australia Act explicitly supports commercial and industrial activity, and a sustainable State economy as an Object and notes that an analogous object is entirely absent from the proposed Bill.</p> <p>SACOME notes that s7(c) of the draft Bill seeks to 'prioritise biodiversity assets for conservation and restoration across the State and to inform land use planning and decision making-frameworks. Given the State's long-standing Multiple Land Use Framework (MLUF), SACOME seeks clarification on whether the South Australian Government intends to depart from the MLUF model in favour of a land use and planning model that prioritises biodiversity conservation and restoration.</p> <p>SACOME further notes that such an approach could operate as a mechanism to enact moratoria over parts of the State.</p> <p>Given the Bill proposes to amend 'mining Acts' so that they must have regard to the Objects of the Biodiversity Act, SACOME seeks further information to fully understand how Ministerial decision making under those Acts will be altered by the proposed Bill.</p> <p>SACOME expresses concern that the Objects of the Bill and the omission of commercial and industrial activity in a manner analogous to the Landscape SA Act signals a departure by the South Australian Government from a balanced model of land use planning and decision-making frameworks, to one that prioritises biodiversity conservation and restoration over economic and commercial activity.</p>	
s.8 - Principles	<p>SACOME observes that the Principles of the Bill create a responsibility for 'persons or bodies engaged in the administration of this Act' to give effect to the principle of halting and reversing biodiversity loss such as there is an improvement in the state of Biodiversity.</p>	<p>Draft Principles not supported in full.</p> <p>Note legislative overlap between Principles set out</p>

	<p>SACOME notes that this narrow protective duty is applied to the limited cohort of administrators of the proposed legislation.</p> <p>By contrast, SACOME observes that principles of the Landscape SA Act aim to achieve <i>'ecologically sustainable development' and hold that 'responsibility to achieve ecologically sustainable development should be seen as a shared responsibility between local, State and the Commonwealth governments, the private sector, and the community more generally, and enduring and effective partnerships should be promoted and supported'.</i></p> <p>While we recognise that the principles of these respective statutes are different in nature, SACOME observes that the draft Bill creates a protectionist framework administered by the Minister for Climate, Environment & Water and DEW, while the Landscape SA Act holds ecologically sustainable development as a fundamental principle and extends responsibility to a broad range of stakeholders, including the private sector.</p> <p>SACOME notes that one of the Objects/Principles of the Landscape SA Act is that it:</p> <p><i>s.7(d) promotes, protects and conserves biodiversity, and insofar as is reasonably practicable, supports and encourages the restoration or rehabilitation of ecological systems and processes that have been lost or degraded, and promotes the health of ecosystems so that they are resilient in the face of change.</i></p> <p>SACOME again observes the overlaps between the Principles of the draft Bill and the Landscape SA Act regarding biodiversity protection and conservation, though noting that the draft Bill proposes a regime of halting and reversing biodiversity loss as a strict measure.</p>	<p>in the draft Bill and those of the Landscape SA Act.</p> <p>Suggest amendment to reflect a more balanced set of principles.</p>
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	<p>SACOME contends that the Principles and Objects of the Landscape SA Act reflect a more balanced and inclusive regulatory framework and submits that the Principles of the draft Bill should be amended accordingly.</p>	
<p>s.9 – Regard had to State Biodiversity Plan</p>	<p>State Biodiversity Plan is a key element of the draft Bill and will ‘set out principles, policies and strategic directions for achieving the Objects of this Act’. Given the centrality of the State Biodiversity Plan to the proposed legislative framework and (per the Explanatory Guide at p.7) its function of determining ‘spatial priorities for conservation and restoration to inform land use change and decision making’, more detail is sought regarding its likely content and intended operation.</p>	<p>Support contingent on greater detail regarding likely content and operational effect of State Biodiversity Plan.</p>
<p>s.11 – General Duty</p>	<p>Recognise that similar provisions for a general duty exist in the Landscape SA and Environment Protection Acts and the concept of a general duty is supported in-principle.</p> <p>Seek clarification on the interaction between s.11(f) <i>if a statutory authorisation has been granted in respect of the activity—any assessment made about potential impacts of the activity on biodiversity and the extent to which any harm was intended to be prevented or minimised through conditions attached to the authorisation</i>; and s.11(4) which precludes a breach of the general duty if an entity is acting ‘in accordance with a requirement under this Act or another Act’.</p> <p>Given that the draft Bill will amend ‘mining Acts’ to take account of the Objects of the Biodiversity Act, SACOME seeks clarification on how the Minister responsible for administering ‘mining Acts’ will be required to take account the objects of the Biodiversity Act as part of their decision-making process and how that will affect granting of authorisation by the Minister.</p> <p>SACOME seeks clarification on whether a grant of authorisation by a Minister who administers a ‘mining Act’ will be deemed invalid if the objects of the Biodiversity Act have not been taken into account.</p>	<p>Clarification sought on interaction between s.11(f) and s.11(4) to better understand how Biodiversity Act will affect Ministerial authorisations under ‘mining Acts’.</p> <p>Detail on ‘regulations or biodiversity policies’ proposed by s.11(3) is sought.</p>

	<p>SACOME queries whether the intention of the general duty is for the Biodiversity Act to have primacy over ‘mining Acts’ as the wording of s.11 is unclear in this regard.</p> <p>SACOME notes per s.11(3) that <i>Regulations or a biodiversity policy may specify—</i> <i>(a) activities that will, or will not, be taken to harm biodiversity; and</i> <i>(b) matters to be taken into account in determining what measures are required to be taken under this section; and</i> <i>(c) measures that will, or will not, be taken to constitute reasonable measures for the purposes of compliance with the duty.</i></p> <p>SACOME submits that the Bill defers to subordinate legislation important detail on activities, matters and measures relevant to determining biodiversity harm, with the consultation package providing no information on the content, operation or likely effect of ‘regulations or a biodiversity policy’ enabled by this section.</p>	
<p>s.13 – Ministers not to administer Act</p>	<p>The Bill specifies that:</p> <p><i>The following Ministers must not assume responsibility for the administration of this Act:</i> <i>(a) the Minister administering a mining Act;</i> <i>(b) the Planning Minister.</i></p> <p>While we note that this clause likely addresses perceived conflict of interest and purpose between the specified Ministers and the administration of the proposed Biodiversity Act, SACOME notes that no analogous clause exists in the Landscape SA Act, Native Vegetation Act or National Parks and Wildlife Act.</p> <p>SACOME seeks further information to understand the rationale for inclusion of this clause, noting that while it precludes administration by Ministers holding ‘mining’ or</p>	<p>Seek further information to understand the rationale for this section.</p>

	planning portfolios, it does not preclude Ministers holding other 'economic portfolios' like Primary Industries & Regional Development or Forest Industries.	
Part 3 - Administration		
Division 2, Subdivision 1 – Biodiversity Council s.15 – Composition of Council	<p>Per s.15 (2)(a) the Bill requires the Minister to appoint a skills-based, seven-member Council '<i>with a view to achieving a balance of expertise that is relevant to addressing the conservation, restoration and enhancement of biodiversity</i>'.</p> <p>Per s.15(2)(b) <i>selecting a reasonable range of persons who collectively have skills, knowledge and experience in the following areas:</i></p> <ul style="list-style-type: none"> (i) <i>terrestrial biodiversity conservation and restoration;</i> (ii) <i>aquatic biodiversity conservation and restoration;</i> (iii) <i>local government;</i> (iv) <i>energy and resources;</i> (v) <i>scientific research;</i> (vi) <i>primary production or pastoralism;</i> (vii) <i>land use, urban or regional planning;</i> (viii) <i>climate change adaptation</i> <p>This skills based-approach to composition of the Council is supported, as is inclusion of energy and resources expertise. SACOME notes that the phrase 'with a view to' is ambiguous and seeks clarification on the nature of the obligation placed on the Minister in appointing Council members.</p>	In-principle support, further clarification sought.
s.15(3) – Composition of the Council	<p>SACOME notes the obligation to consult placed on the Minister prior to making an appointment to the Biodiversity Council.</p> <p><i>s.15(3) The Minister must consult with, and take into account the views of—</i></p>	Not supported.

	<p><i>(a) the Conservation Council of South Australia before making an appointment for the purposes of subsection (2)(b)(i) and (ii); and</i></p> <p><i>(b) the Local Government Association of South Australia before making an appointment for the purposes of subsection (2)(b)(iii); and</i></p> <p><i>(c) Primary Producers South Australia before making an appointment for the purposes of subsection (2)(b)(vi); and</i></p> <p><i>(d) the Premier's Climate Change Council established by the Climate Change and Greenhouse Emissions Reduction Act 2007 before making an appointment for the purposes of subsection (2)(b)(viii),</i></p> <p><i>and may consult with any other entity the Minister thinks fit.</i></p> <p>SACOME seeks clarification on why consultation with the entities listed in s15(3) by the Minister is mandatory prior to making an appointment, and why other peak bodies relevant to providing 'views' on skill-based appointments (for instance, energy and resources) have been excluded from mandatory consultation.</p> <p>By contrast, the requirement for the Minister to consult with 'any other entity' not listed by the Bill is entirely discretionary. SACOME submits that consultation with the resources sector should be mandated by the Bill.</p> <p>SACOME seeks clarification on why this approach has been adopted, noting that it operates to preference the views of the listed organisations and the sectors they represent to the exclusion of others, like the South Australian resources sector. This raises particular concerns given the responsibility assigned to the Biodiversity Council for development of key instruments like the State Biodiversity Plan.</p> <p>This section is not supported and SACOME calls for it to be amended.</p>	
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<p>s.18 – Composition of the Native Plants Clearance Assessment Committee</p>	<p>Note that this is a key Committee, central to the operation of the proposed Bill with responsibility for administration of the SEB Scheme.</p> <p>Note that the number of members; requirements for skills and expertise of members; and requirements for appointment of members will be set out in Regulations.</p> <p>Submit that a member with resources and energy sector skills and expertise should be included on NPCAC.</p>	<p>Detail of appointment process deferred to subordinate legislation.</p> <p>Resources and energy sector representation on the NPCAC sought.</p>
<p>Part 4 – Native Plants</p>		
<p>s.48(2) – Application for consent</p>	<p>s.48(2) provides that <i>"If the land is held from the Crown under a lease that is not granted in perpetuity, an application for consent to clear native plants may only be made by the Minister responsible for the administration of the Crown Land Management Act 2009"</i>.</p> <p>This would mean that all development approved under the PDI Act or HRE Act on pastoral lease land (which is development that is not an unregulated activity covered by Schedule 2) would be subject to subsection 48(2).</p> <p>Therefore, the developers of those projects would need to arrange for the Minister responsible for the administration of the Crown Land Management Act 2009 to make their Biodiversity Act applications for consent on their behalf.</p> <p>SACOME submits that this is not the intention of the subsection, and that the drafting needs to be revised and narrowed so that it does not capture such a wide range of activities.</p>	<p>Drafting of s.48(2) should be revised.</p>
<p>s.52(2) – Conditions of consent</p>	<p>s.52(2) lists conditions that may be imposed on a consent.</p> <p>These include, among other things:</p>	<p>Drafting of s.52(2) should be revised.</p>

	<p>(b) a condition requiring the applicant to—</p> <p>(i) establish a specified number of plants of a specified species on specified land, or cause such plants to be established; and</p> <p>(ii) nurture, protect and maintain the plants, or cause the plants to be nurtured, protected and maintained, until they are fully established or for such period as the NPCAC specifies;</p> <p>(c) a condition requiring the applicant to protect native plants growing or situated on specified land, or to cause such plants to be protected;</p> <p>SACOME submits that these provisions fail to appropriately limit the power of the NPCAC such that it may only impose conditions that relate to “specified land” that is owned by the applicant (or in relation to which it has an interest) and for which there is a nexus to the clearance.</p> <p>As drafted, the conditions could require an applicant to establish plants on <u>any</u> land <u>anywhere</u>, whether or not that the applicant has any legal right to access and utilise the land and whether or not the land is capable of supporting plants (for instance, it could be entirely covered by an office building).</p> <p>The scope of the conditions needs to be narrowed so that they only apply to land the subject of a native vegetation management plan put forward by the applicant in support of the application.</p>	
s.61 - Guidelines	<p>SACOME notes that this section requires the Biodiversity to Council to:</p> <p><i>'prepare and adopt guidelines in relation to—</i></p> <p><i>(a) the management of native plants; and</i></p> <p><i>(b) the application of the mitigation hierarchy; and</i></p> <p><i>(c) the application of financial and other assistance provided by the Council under section 101; and</i></p> <p><i>(d) any other matter required by this Act or the regulations.'</i></p>	Not supported, further clarification sought.

	<p>SACOME further notes that, per Schedule 2, clause 2 – Operation of Schedule, ‘A person carrying out or undertaking, or intending to carry out or undertake, an act or activity set out in this Schedule must comply with any applicable guidelines adopted by the Council under section 61.’</p> <p>SACOME notes that Schedule 2, Division 5 lists ‘Mining and petroleum activities’ as activities that must comply with ‘any applicable guidelines adopted by the Council under s61.’</p> <p>Per s61(3)</p> <p><i>In preparing guidelines for the purposes of this section, the Council must</i></p> <p><i>(a) prepare draft guidelines; and</i></p> <p><i>(b) by public advertisement, invite members of the public to make representations to the Council (within a period of not less than 2 months following publication of the advertisement) as to matters that should be addressed by the guidelines; and</i></p> <p><i>(c) submit the draft guidelines to the Minister for comment; and</i></p> <p><i>(d) submit the draft guidelines for comment by the regional landscape board for the landscape management region to which the guidelines relate; and</i></p> <p><i>(e) where the draft guidelines relate to pastoral land, submit the guidelines to the Pastoral Board for comment; and</i></p> <p><i>(f) where the draft guidelines relate to land within the area of a local council, submit the guidelines to the Local Government Association of South Australia for comment; and</i></p>	
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	<p><i>(g) submit the draft guidelines to Primary Producers SA Incorporated and to the Conservation Council of South Australia Incorporated for comment; and</i></p> <p><i>(h) where the draft guidelines relate to land within the Murray-Darling Basin, submit the guidelines to the Minister to whom the administration of the River Murray Act 2003 is committed for comment</i></p> <p>While SACOME recognises the logic of submitting guidelines with a specific application for comment to entities with relevant specialist understanding, it is entirely unclear why guidelines will be submitted to Primary Producers SA and the Conservation Council SA for comment without any qualifying reason.</p> <p>Further, SACOME submits that this approach is highly exclusionary particularly when guidelines will bind the South Australian resources sector, yet no resources sector peak body will be consulted with as part of the development process.</p> <p>SACOME seeks further information to understand the rationale that has informed this drafting decision.</p> <p>This section is not supported.</p>	
<p>Part 6 – Threatened species, threatened ecological communities and listed ecological entities</p>		
<p>s.74 – Listing process</p>	<p>SACOME notes that ‘any entity’ may in the manner and form determined by the Minister, nominate a native species, ecological community or other ecological entity to the Minister for a listing decision.</p> <p>SACOME further notes that:</p>	<p>Further detail sought.</p>

	<p><i>(3) The Minister may reject a nomination under subsection in the following circumstances:</i></p> <p><i>(a) the nomination was not made in the manner or form determined by the Minister or does not contain sufficient documentation or evidence;</i></p> <p><i>(b) the Minister considers that the nomination is vexatious, frivolous or not made in good faith;</i></p> <p>SACOME supports the inclusion of this provision consistent with its previous submissions to the consultation process, but notes that power afforded to the Minister is discretionary (i.e. 'the Minister considers').</p> <p>SACOME seeks further detail to understand what factors are intended to inform the Minister's consideration under this section; and further detail regarding 'the manner and form' required for nominations to be made under this section.</p>	
<p>Part 7 – Sanctuaries and other conserved areas</p>		
<p>s.92 Biodiversity Agreements & s.93 Effect of Biodiversity Agreements</p>	<p>SACOME notes that Biodiversity Agreements are intended to replace Heritage Agreements that operate under the Native Vegetation Act.</p> <p>Noting that the Bill affords the Minister power to 'restrict the use of land' to which a Biodiversity Agreement applies, SACOME seeks confirmation that Biodiversity Agreements are not intended to restrict land access for mineral or petroleum activities, consistent with the operation of Heritage Agreements under the Native Vegetation Act.</p>	<p>Seek confirmation that Biodiversity Agreements are not intended to restrict land access for resources sector activities.</p>

<p>s.94 Conservation Agreements</p>	<p>SACOME notes that Conservation Agreements are a newly-introduced instrument under the draft Bill.</p> <p>SACOME notes that the Bill affords the Biodiversity Council power to 'restrict the use of land' and to 'restrict the nature of work or other activities that may be carried out on the land' to which a Conservation Agreement applies.</p> <p>SACOME seeks confirmation that Conservation Agreements are not intended to restrict land access for mineral or petroleum activities, consistent with the operation of Heritage Agreements under the Native Vegetation Act.</p> <p>SACOME also seeks confirmation that Conservation Agreements are not intended to restrict mining or petroleum activities on land to which a Conservation Agreement applies.</p>	<p>Seek confirmation that Conservation Agreements are not intended to restrict land access for resources sector activities, or prevent resources sector activities from being undertaken on land to which a Conservation Agreement applies.</p>
<p>Part 10 - Miscellaneous</p>		
<p>s.160 State Biodiversity Plan</p>	<p>SACOME notes that, in preparing the State Biodiversity Plan, the Minister must per s.160(5)(d) '<i>undertake such consultation as the Minister considers necessary or appropriate</i>'.</p> <p>SACOME notes that the wording of this section affords the Minister discretionary powers to undertake consultation based on whether they 'consider it necessary or appropriate to do so'.</p> <p>Given the State Biodiversity Plan is a central operational component of the Bill, SACOME submits that public consultation should be mandatory, not discretionary; and that the Minister should be required to undertake public consultation and have</p>	<p>Amend section to require public consultation on State Biodiversity Plan to be mandatory, not discretionary.</p>

	regard to public comment resulting from public consultation in preparing and reviewing the State Biodiversity Plan.	
s.161 Biodiversity Policies	<p>SACOME notes that this section affords the Minister power to make Biodiversity Policies, including the Significant Environmental Benefit Scheme (SEB) policy.</p> <p>Given the importance of the SEB Scheme to the resources sector, SACOME seeks additional information about what changes to the SEB Scheme are contemplated as part of this process.</p> <p>SACOME further notes that Biodiversity Policies are a key operational component of the proposed legislative framework, the operational details of which are deferred to subordinate legislation/policy.</p> <p>Further detail about their intended scope and operation is sought to better understand their effect.</p> <p>SACOME also submits that, per s161(8)(b), the public consultation period of 30 days should be extended; and seeks further detail on who the 'prescribed entities' referred to in this section are.</p>	<p>Further detail on intended scope and operation of Biodiversity Policies sought.</p> <p>Public consultation period should be increased.</p> <p>Detail of 'prescribed entities' referred to in s161(8)(b) sought.</p>
Schedule 2 – Native Plants – regulated acts or activities exclusions		
Clause 2 – Operation of Schedule	<p>SACOME notes that per Clause 2(2) <i>A person carrying out or undertaking, or intending to carry out or undertake, an act or activity set out in this Schedule must comply with any applicable guidelines adopted by the Council under section 61.</i></p> <p>This appears to require 'mining and petroleum activities' as listed Schedule 2 activities to comply with 'any applicable guidelines adopted by Council under s61'.</p> <p>It is unclear how this section is intended to operate and further clarification is sought.</p>	<p>Explanatory Guide provides no detail of how this clause is intended to operate.</p> <p>Further clarification sought.</p>

<p>Part 2 – Clearance of Native Plants, Division 1 – Intentionally sown or planted native plants, Clause 3(b)</p>	<p>Clarification is sought on the operation of this section for operations like quarries where native plants may have been planted onsite 20 or more years prior, but which are proposed for clearance due to expansion of activity.</p> <p>Is clearance in these circumstances an unregulated activity; and will clearance give rise to SEB obligations?</p> <p>Will such a proposed clearance be subject to approval by the NPCAC?</p>	<p>Further clarification sought.</p>
<p>Division 5 – Mining & Petroleum Activities s.14</p>	<p>SACOME queries whether this clause changes the way native vegetation clearances will be administered for the purposes of exploration activity:</p> <p>14—Mining explorations</p> <p><i>(1) Clearance of native plants incidental to exploratory operations authorised under a designated Act if undertaken in accordance with guidelines adopted by the Council under section 61 for the purposes of this clause following consultation with the Minister responsible for the administration of the Mining Act 1971 (the mining Minister).</i></p> <p><i>(2) Guidelines adopted by the Council for the purposes of this clause must—</i></p> <p><i>(a) be directed towards ensuring that exploratory operations will have a minimal impact on biodiversity and be conducted in a manner that will allow for regrowth of native plants; and</i></p> <p><i>(b) adequately address any concerns raised by the mining Minister during consultation.</i></p>	<p>Explanatory Guide provides no detail of how this clause is intended to operate.</p> <p>Clarification sought on whether this clause represents a change to existing native vegetation clearance approvals process given exploration operations must be taken in accordance with guidelines adopted by Council under s.61.</p>
<p>Schedule 5 – Related amendments & repeals</p>		
<p>Part 9 – Amendment of Energy Resources Act 2000</p>	<p>Note that the Energy Resources Act will be amended so that it must have regard to the objects of the Biodiversity Act.</p>	<p>Further clarification sought.</p>

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	Seek clarification on what changes to the process of Ministerial decision making under the Energy Resources Act this will create, particularly where this relates to approvals.	
Part 21 – Amendment of Mining Act 1971	<p>Note that the Mining Act will be amended so that it must have regard to the objects of the Biodiversity Act.</p> <p>Seek clarification on what changes to the process of Ministerial decision making under the Energy Resources Act this will create, particularly where this relates to approvals.</p>	Further clarification sought.