

Biodiversity Act 2025: Regulations (statutory bodies)

Explanatory guide



Government
of South Australia

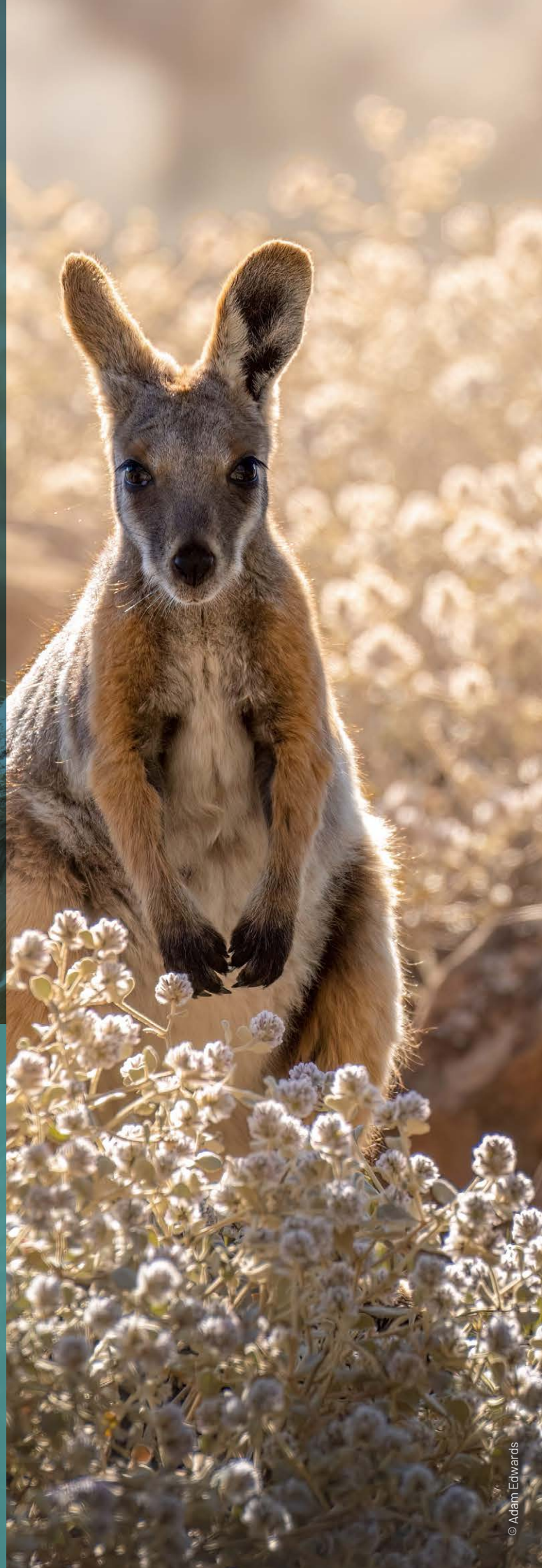
Department for
Environment and Water

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Acknowledgement of Country

The South Australian Government respects the First Peoples of South Australia and recognises the cultural authority of all Traditional Owners. We acknowledge that caring for Country is a cultural obligation and that First Nations peoples have been stewards of the environment for many generations. We acknowledge the enduring impact of colonisation on First Nations peoples, families, communities, cultures, knowledges and languages, and the impact on the environment. We recognise the need for more respectful engagement with First Nations peoples, the need to empower First Nations peoples to continue to work with the government in caring for Country, and the need to work together for better outcomes for Country and people.



Introduction

We want your help to finalise the details of the four statutory bodies to be established under the [Biodiversity Act 2025](#):

- Biodiversity Council
- Clearance Assessment Committee
- Aboriginal Biodiversity Committee
- Scientific Committee

We are inviting feedback on draft biodiversity regulations which detail the composition, requirements, procedures and skill sets for these bodies, complemented by key features already identified in the Act.

Collectively, they will play a critical role in implementing the Biodiversity Act by providing advice to government and contributing to, or approving, policies and guidelines.

This marks a significant step towards implementing South Australia's first piece of legislation dedicated to protecting biodiversity.

However, these will not be the only regulations made under the Biodiversity Act. As additional regulations are developed, there will be further opportunities to provide feedback.

We want your feedback on aspects defined in the regulations.

Unlike the Biodiversity Council, not all details for the Clearance Assessment Committee, Aboriginal Biodiversity Committee and Scientific Committee are contained in the Act and need to be detailed in regulations.

General procedures for all the bodies have also been included in the draft regulations for feedback.

Some key elements have already been defined in the Biodiversity Act.

Statutory Bodies

The Biodiversity Act already identifies the purpose and role of the four statutory bodies, guided by the feedback received during the Act's development.

The Act also includes specific details for the Biodiversity Council including its composition, number of members and appointment process. We have included this information throughout this document to help explain the Council's role, but we are not seeking feedback on these elements.

Biodiversity Administration Fund

The Act will have three new statutory funds (Biodiversity Restoration Fund, Biodiversity Conservation Fund and Biodiversity Administration Fund) with detail about how each of these funds operate, including who controls them, what money will flow into them and how the money they hold can be used already established by the Act.

Unlike the Restoration and Conservation Funds, which will be carried over from existing funds established under the *Native Vegetation Act 1991* (Native Vegetation Fund) and *National Parks and Wildlife Act 1972* (Wildlife Conservation Fund), the Administration Fund is required to have an amount specified representing a portion of the existing Native Vegetation Fund.



About the statutory bodies

The Biodiversity Council and the three committees – collectively called statutory bodies – are established under the Biodiversity Act to provide advice and support elements of the Act once in operation.

The purpose and role of each of these are detailed in the Act.

Biodiversity Council

- Advises the Minister on the administration of the Biodiversity Act and the State Biodiversity Plan
- Prepares and adopts guidelines that relate to the clearance of native plants, and other matters
- Makes policy regarding Significant Environmental Benefits and environmental credits
- Manages the Biodiversity Restoration Fund
- Reviews the operation of the principles of preservation of native plants and mitigation hierarchy
- Approves biodiversity agreements
- Reviews refusals of the Clearance Assessment Committee, and revokes consents
- Engages the community about biodiversity

Clearance Assessment Committee

- Makes native plant clearance assessment decisions, including for consent to clear under the *Planning, Development and Infrastructure Act 2016*
- Makes decisions about destruction, damage and disturbance of critical habitat
- Applies the Significant Environmental Benefits policy
- Provides expert advice to the Minister and Biodiversity Council about native plants
- Initiates enforcement relating to unlawful clearance of native plants



Aboriginal Biodiversity Committee

- Advises the Minister on the management of biodiversity from Aboriginal perspectives, the operation of the Act, the State Biodiversity Plan, and the use of Aboriginal knowledges in the management of biodiversity
- Co-develops with the Minister policies regarding the use of Aboriginal knowledges, Culturally Significant Biodiversity Entities, and Cultural burning

Scientific Committee

- Makes listing decisions for the designated lists, including threatened species
- Reviews and provides advice on action plans and threat abatement plans
- Undertakes extinction inquiries
- Provides advice on the State Biodiversity Plan and other plans and policies

The statutory bodies will also play an important role in making the Biodiversity Act operational by approving, co-developing or providing advice on policies, guidelines and other supporting items.

	Biodiversity Council	Clearance Assessment Committee	Aboriginal Biodiversity Committee	Scientific Committee
Regulations	Provide advice	Provide advice	Provide advice	Provide advice
Native plant policies	Approve	Provide advice	Provide advice	Provide advice
Other policies	Provide advice	Provide advice	Co-develop (where relevant)	Provide advice
Guidelines	Approve	Provide advice	Provide advice	Provide advice
State Biodiversity Plan	Provide advice	Provide advice	Provide advice	Provide advice



Have your say

While the purpose and role of the statutory bodies is detailed in the Biodiversity Act, we’re seeking feedback on the information included in the draft regulations, which is outlined through the rest of this document.

Membership

The number of members for each of the three committees has been proposed in the draft regulations.

A range in the number of members will ensure flexibility and enable appointments to be tailored to meet the skills sought.

To ensure the Scientific Committee and Clearance Assessment Committee decisions remain independent, limitations have been proposed on the number of public service members (government employees) that can be appointed.

Committee	Member numbers proposed in the draft regulations	Draft regulation
Clearance Assessment Committee	- Between 5 members (minimum) and 7 members (maximum) - Of these, public service members (government employees) can’t make up more than 50% of committee members	Regulation 5
Aboriginal Biodiversity Committee	Between 6 members (minimum) and 10 members (maximum)	Regulation 7
Scientific Committee	- Between 6 members (minimum) and 10 members (maximum) - Of these, public service members (government employees) can’t make up more than 50% of committee members	Regulation 9

Skills and expertise

Specific skills and expertise have been proposed in the draft regulations for each of the three committees, designed to suit and assist in delivering their unique functions.

Committee	Skills and expertise proposed in the draft regulations	Draft regulation
Clearance Assessment Committee	• Planning (urban or regional): to add value in understanding broader planning matters that may be relevant to decision making • Land use/management: to add value in understanding the needs of land managers that may be relevant to decision making • Environmental law: to provide a legal perspective to decision making, in particular due to new appeal provisions and initiating enforcement action • Biodiversity conservation and restoration: to contribute to decision making where the Significant Environmental Benefits policy will be applied • Native plant and animal ecology: to add value to decision making regarding native plant clearance, including its effect on habitat for native animals and critical habitat matters • Environmental impact assessment: to contribute to the interpretation of the assessment of impacts prepared as part of applications • Other skills and expertise the Minister considers appropriate to enable the committee to carry out its functions effectively	Regulation 5
Aboriginal Biodiversity Committee	• Planning, delivery or evaluation in relation to caring for Country • Integration of Aboriginal knowledges into government processes and policies • Other skills and expertise the Minister considers appropriate to enable the committee to carry out its functions effectively	Regulation 7
Scientific Committee	• Vascular flora (plants with root systems, stems and leaves – such as trees, shrubs, grasses, flowering plants and ferns) • Non-vascular flora (includes plants without vascular systems, fungi and algae) • Vertebrate fauna (animals with a spine, including mammals) • Invertebrate fauna (animals without a spine, including insects) • Ecological communities • Terrestrial (land) ecology • Marine ecology • Freshwater ecology • Other skills and expertise the Minister considers appropriate to enable the committee to carry out its functions effectively Members may also be required to undertake training relevant to the performance of the committee's functions, in particular, the processes established by the International Union for Conservation of Nature (IUCN) for the assessment of threatened species.	Regulation 9



Appointment

The draft regulations identify how each of the three committees should be appointed.

Committee	Appointment methods proposed in the draft regulations	Draft regulation
Clearance Assessment Committee	- A public expression of interest process determined by the Minister - As far as practicable, equal numbers of men and women are to be appointed	Regulation 5 (3)
Aboriginal Biodiversity Committee	- A public expression of interest process determined by the Minister - The Minister must consider appointing people from different parts of the State - As far as practicable, equal numbers of men and women are to be appointed	Regulation 7
Scientific Committee	- A public expression of interest process determined by the Minister - As far as practicable, equal numbers of men and women are to be appointed	Regulation 9

Procedures

Some basic procedures have been proposed in the draft regulations for the Biodiversity Council (Regulation 4), Clearance Assessment Committee (Regulation 6), Aboriginal Biodiversity Committee (Regulation 8) and Scientific Committee (Regulation 10).

These include:

	Biodiversity Council	Aboriginal Biodiversity Committee	Scientific Committee	Clearance Assessment Committee
A meeting will be valid as long as at least half of the members – plus one – are present.	☒		☒	☒
If one or more members indicate they can't consider a matter on cultural grounds, it can be resolved in accordance with procedures set by the committee or (if not set) by the Minister.		☒		
Decisions are valid if supported by a majority of votes cast at a meeting. In the event of a tie, the chair has a casting vote.	☒		☒	☒
Decision-making procedures can be set by the committee.		☒		
If the chair is absent from a meeting, those present must choose a member – who can't be from the public service (government) – to act as chair.	☒	☒	☒	☒
A meeting can be held electronically (e.g. telephone, teleconference, etc.) if all members are given appropriate notice and each participant is able to communicate with all members.	☒	☒	☒	☒
If a decision/resolution is not voted on at a meeting, it will be considered valid if it is communicated to all members in accordance with the group's own procedures and a majority of those members write to confirm their support or agreement.	☒	☒	☒	☒

1. Do you support the proposed membership ranges for the Clearance Assessment Committee, Aboriginal Biodiversity Committee and Scientific Committee?

2. Do you support the proposed public service membership limits for the Clearance Assessment Committee and Scientific Committee?

3. Do you support the proposed skills and expertise requirements for the Clearance Assessment Committee, Aboriginal Biodiversity Committee and Scientific Committee?

4. Do you support the proposed appointment methods for the Clearance Assessment Committee, Aboriginal Biodiversity Committee and Scientific Committee?

5. Do you support the proposed meeting and decision making procedures for the Clearance Assessment Committee, Aboriginal Biodiversity Committee and Scientific Committee?

6. Is there anything else you would like to add about the draft biodiversity regulations?





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