



Conservation Council SA

Natural Resources Management (Review) Amendment Bill

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The **Conservation Council of South Australia Inc (Conservation SA)** is the peak conservation body for South Australia, representing over 55 of the State's environment and conservation organisations.

Conservation SA is an independent non-profit, non-party-political, community-based organisation. It provides resources, advice and representation for the SA environment movement and leads many of the key conservation campaigns in SA.

Conservation SA is known for its success in developing long-term community development, education and on-ground environmental restoration programs.

Conservation SA regularly liaises with Local, State and Federal Governments, Government agencies, media, educational institutions, NGOs, unions, industry, business and other groups on matters relating to the environment and social justice.

As a community organisation, much of what Conservation SA achieves is through a large network of skilled volunteers from all walks of life as well as its office, on-ground, governance and campaign activities.

Conservation SA's submission

Conservation SA is pleased to make a submission on the Natural Resources Management (Review) Amendment Bill.

Conservation SA is recognised as a peak body and partner for delivering the goals of the State NRM Plan under the *Natural Resources Management Act 2004* (NRM Act). Conservation SA is represented on the State NRM Council, established by the NRM Act (Section 13) alongside South Australia's Farmers Federation, the Local Government Association and Aboriginal Landholding bodies.

This submission provides comments within the scope of the Amendment Bill as well as additional comments on issues Conservation SA would like to see addressed in future NRM Act reform and review processes.

Conservation SA is generally supportive of amendments that reduce the administrative burden on NRM Boards, so long as these do not compromise the capacity for community engagement and consultation or environmental outcomes. Conservation SA is very supportive of amendments that improve the ability of regional bodies to implement the NRM Act and that help clarify the legislation.

Comments on the Amendment Bill

Amendments not Supported

Amendment Clause 22(1)

Conservation SA strongly objects to this amendment. Legislated review should occur at least every 5 years. Review is required on a more regular basis than 10 years to ensure that the latest research, community attitudes and regional changes are captured in NRM planning documents. This is especially the case with the Water Allocation Plans where climate change is excelling at unprecedented rates and the science is continually being updated, subsequently affecting the relevant hydrological modelling that guides water allocation. Community attitudes also change. Having a regular review period also allows the Boards to reconnect on a formal level with the regional community.

Continual review should also be accommodated; however, this continual review should not alter water allocations, Board actions, budget allocations etc... without in-depth community consultation or else this undermines the intent of engaging with community during the plan's draft stages.

Amendment Clauses 19 & 20

The repeal of Section 78, regarding preparation of a concept statement, is not supported without replacing it with a similar legislated community consultation process more extensive than the proposed notice.

Merely replacing this with public notification (amendment 20(1)) does not provide the same level of public consultation on the plan's development. Whilst it is agreed that the concept statement (Section 78) was not an effective way to elicit community involvement during the consultation process, there is still a need to engage community during these early stages of a plan's development. A legislated consultation process that occurs before the final draft is presented to community is therefore required. In reviewing how effective the Concept Plans were in generating public interest we should also reflect on the fact that these were very early in the days of the NRM Act and the regional planning processes.

The current level of consultation by many NRM boards has been regarded as 'insincere' by a number of community groups (Woodlands J. *et al* 2009), even though the Boards' consultation met legislative requirements. Therefore, consultation on the development of plans needs to adopt more genuine and comprehensive processes and these need to be legislated. For example, consultation on regional plans could be required at each of the following levels:

- the state of the region, which highlights threats
- vision and goals for the region based on these threats
- actions to address these threats
- the final draft, which pulls these elements together.

Or a similar tiered system of consultation that roughly correlates to the four regional plan volumes. The legislation should provide for community feedback on guiding philosophies and key regional threats and issues, before the actions and budget are drafted.

This tiered approach to consultation will help ensure that changes suggested by community on the final draft do not require a complete alteration of the Board's thinking on the draft plan. Some Boards have adopted a similar type of tiered community consultation process, but unless such a process is legislated there are some Boards that will not have the impetus or support to 'genuinely' engage with community.

It has been the experience of many of Conservation SA's member groups who make submissions that alterations following consultation processes tend to only occur on details such as corrections to information, semantics and minor alterations to actions.

Amendments Conditionally Supported

Amendment Clauses 6 (1) and 11 (1)

Conservation SA recognises the value of efficiencies for both the Council and nominees through this amendment but would stress the importance of maintaining a strong balance of membership skills over expediency. Where gaps in the skills-base cannot be filled by previous nominees further candidates should be sought.

Amendment Clause 10

It is highly recommended that a clause be added to Section 22 (Establishment of regions) requiring the Minister to consult with the public on any decisions to change regional boundaries. There have been changes to regional boundaries without public consultation and this has caused confusion and angst amongst some landholders. This amendment could be made under subsection 22 [5] and should as a minimum provide public notice and an opportunity for community consult for at least 21 days.

Additional Amendment Clause 17

In Section 75 regarding NRM Plans it is recommended to change **subsection 3 [d]** to read -

Set out a scheme for implementation of natural resource management programs and policies in the areas the board has an interest including:

- (i) through NRM Groups; **and**
- (ii) by working with, or engaging, councils or council subsidiaries, **and** other bodies or groups (including community groups and volunteers)

As each of these stakeholder interests are critical for long-term community ownership of NRM this should not be an 'or' statement, which implies that boards can engage with NRM Groups (where this applies) or council or community groups. NRM Boards should be required to engage with all these stakeholders and include them as delivery agents and decision makers.

Amendment Clauses 17(4) & (7) (3b) (3c)

Conservation SA has reservations regarding this amendment for inclusion of an economic impact statement. The legislation needs to be written in a way that ensures that an economic impact statement is not used politically and that balance is maintained between short-term economic concerns and long-term natural resource management in the regions and hence their long-term economic values to the State. The Minister or the legislation needs to specify what processes will be adopted if an economic impact statement for a new levy suggests their will be an adverse impact. How will the Minister use this information to reject or approve a levy introduction or rise?

Amendment Clause 18(1) (i)

The intent of this amendment requires further clarification. The capacity of the water resources to meet environmental water requirements would be a given if it were not for competing uses/allocations.

Amendment Clauses 20(3) & (21)

Within this amendment it would be useful to include provisions that ensure Boards submit notes on how public comments have been incorporated to the Minister as well as the revised draft. There needs to be a legislative process to ensure the Minister is aware of community comments on draft plans that were not incorporated and the reasons for these decisions. This is important in order for the Minister to approve a plan with confidence that community concerns have genuinely been considered.

Amendment Clause 22

Within Section 81 (4) it needs to be legislated that the review of NRM Plans requires more in-depth community consultation similar to the consultation required for a plan's initial development rather than just presenting proposed changes and asking for submissions.

Amendment Clauses 33 (1) (2)

Overall these amendments are supported but it will be vitally important that in implementing these provisions Board or agency personnel ensure that landholders are fully aware of their other State regulatory obligations in respect to dams ie Native Vegetation Act 1991.

Amendments Strongly Supported

Amendment Clauses 27, 29 (2), 41 – 43 are all considered to be particularly valuable amendments to the Act.

Additional comments on the NRM Act

Concerns regarding water management and prescription

Section 125 should include legal provisions to ensure that all catchments will be prescribed and water allocation plans created within a specific timeframe, and not before the catchments show signs of stress. There is a need for boards to be proactive and take a precautionary approach in this regard. All sources of water from a watercourse, lake or well need to be declared as prescribed water resources.

Concerns with NRM levy distribution

The NRM levy currently does not provide an equitable basis for distributing funds to areas where natural resource management needs are greatest. For example, the two largest NRM regions, which subsequently have the largest natural resource base, receive little or no NRM levy monies. The latter being the case with the AW NRM Board.

Conservation SA recommends the following be considered for future amendments of the Act:

- A proportion of each region's levy funds should be distributed to other region's where the levy base is minimal or nil to ensure core NRM functions can be implemented in these regions.

- The basis for levy collection should put onus on significant natural resource users to pay. For example, it is understood that mining companies are currently not required to pay a land-based levy though their potential land-based impacts are potentially considerable to the region

Concerns with the inability to address mining

Conservation SA has concerns regarding the NRM Act's inability to address mining issues. NRM Boards have reported issues in accessing information from mining lands, which limits the knowledge base that a region can utilise. Amendment 17(1) & (2) is intended to ensure that regional NRM plans set the strategic direction for all NRM activities in a region and in order to do this they need to consider natural resource management issues on mining land. The Act needs to have overriding input into industries such as mining to ensure natural resources can be adequately managed. Legislative changes should be made that require mining operations to pay a land-based levy, especially in regions where levy raising potential is limited such as AW and Arid Lands. This will allow better delivery of NRM in the regions.

Concerns with Board membership

Conservation SA would like to see an independent process adopted for the appointment of NRM Board members. If this is not possible then in addition to the existing expertise represented on Boards there could be a community representative that is appointed independently of the Minister.

Conservation SA would also like to see an independent expert appointment to each regional board. Currently an agency representative attends board meetings (without voting powers) and this further portrays the Board as an arm of government to the community. Appointment of independent experts (eg representatives from peak bodies such as SAFF, LGAs and Conservation SA) to provide advice to Boards could increase the knowledge base that Boards can utilise and provide greater links across regional boundaries to better enable landscape management and policy integration.

Concerns with consultation on NRM plans

Timelines for community consultation on regional NRM plans should be increased from a minimum of two months to a minimum of three months to allow meaningful community engagement. The release of some draft plans has coincided with holiday periods or key farming activities such as shearing or harvest. A greater community consultation period would accommodate this and allow for Boards to undertake more community engagement activities within that time period. Currently section 79(9) only requires Boards to consult on a draft plan by inviting them to a meeting and inviting them to make a submission. Section 79(13b) states the public meeting must be in a location the Board perceives is convenient to the region. It is the experience of some Boards that only locals from the town where a meeting is held will attend due to distance between towns and the cost of travel. The chance of gaining meaningful input into a draft plan from a single meeting is inadequate. Conservation SA recommends that a range of public information sessions be legislated and that this occurs at various locations including Adelaide for non-resident landowners and other interested stakeholders and that they occur during both business and out-of-business hours. Most NRM Boards have already adopted such strategies and it should be legislated to ensure Boards to be supported to resource a more sincere process of consultation.

Concerns with 'duty of care'

Duty of care (section 9(1)) is still poorly described. Conservation SA recommends that guidelines be developed to provide guidance on the management and protection of natural resources, in particular biodiversity, as required under the general statutory duty. There should be guidance on what the general duty includes. For example, biodiversity is not articulated in the clause and there is no duty of care currently addressing biodiversity within terrestrial, coastal or marine ecosystems. Guidelines would include responsibilities:

- to keep native vegetation in good condition and free from impacts of grazing and other pressures
- to care for the coastal, estuarine and marine environments in relation to over-extraction, pollution, inappropriate development and the introduction of pest plant and animal species and
- to value water as a finite resource regardless of its source (e.g. surface, ground or stormwater).

Concerns regarding lack of incorporation of climate change in the act

Climate change is currently not mentioned in the NRM Act. Conservation SA recommends that the predicted impacts of climate change are incorporated into the Act in general and especially considered in relation to Chapter 7 (in particular determining water affecting activities) and climate change should be required for inclusion into regional plans and Water Allocation Plans under Chapter 4 (section 76 and 75).

Need to consider of coast and marine issues in the NRM Act

The Act should provide greater guidance on the Board's responsibilities for coast and marine issues and resources. Conservation SA recommends that Coast and Marine responsibilities be addressed in a new Chapter or Part of the Act to clarify the responsibilities of regional NRM Boards. A section on coast and marine should include linkages to the Marine Parks Act, Fisheries Management Act and other relevant legislation and programs (e.g. Marine Planning and the State Estuaries Policy). Biodiversity conservation should be incorporated into a section on coast and marine management.

Need to consider biodiversity and threatened species in the NRM Act

Specific biodiversity conservation legislation needs to be developed for SA. In the interim, the Act needs a strong biodiversity component within the NRM Act is required. Threatened species legislation in SA is weak and amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) has left critical habitats and threatened species in a precarious position.

Conservation SA would like to see an instrument under the NRM Act that considers threatened species in all decision making processes, whilst maintaining the legislative instruments that currently exist.

Threatened species should be considered an essential component of regional NRM Plans and included as another requirement under Section 75 (3).

Concerns regarding the interaction of the NRM and the Development Act

Conservation SA has concerns about the interaction of the NRM Act with the Development Act 1993. Inappropriate development is a major threat to natural resources. The repealed Water Resources Act had instruments that automatically amended development plans through relevant schedules under the Development Act

1991. These instruments were not transferred to the NRM Act with the same status. This represents a significant weakening of the influence of the environment portfolio and the NRM Boards over how the planning system operates with respect to NRM imperatives.

Conservation SA recommends that the Act be amended to provide NRM plans with a statutory instrument that automatically amends Development Plans under the Development Act 1993. This could be included under section 75 (3f) with instruments that require a development plan to adopt changes recommended by the board to be consistent with the objectives of the NRM Act.

Concerns regarding the lack of comprehensive pest management

Conservation SA would like to see Chapter 8 expanded so that the Minister gazettes fish, in particular freshwater fish, under Section 174 as a vertebrate pest for which the NRM Act has controlling provisions.

The movement of pest fish species (eg Gambusia, Carp, Brown Trout and Redfin) is a major concern for regional natural resource management and currently no other legislation in SA adequately accounts for the deliberate release and movement of such species.

Concerns about further integration of South Australian legislation

Conservation SA recognises that the NRM Act was always intended as an umbrella Act and that it is intended that further SA legislation be considered for integration under the Act's provisions. Conservation SA believes this is a process that will require considerable investment and time in stakeholder and community consultation. Conservation SA is cognisant of the difficulties of a heavy and complex work load already experienced by the boards, the existing constraints on obtaining regional members with the required balanced skills set and the risk associated with the board's responsibilities as both enabler and regulator within their local communities. Any further integration will need to give due consideration and provisions for managing these considerable challenges.