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Proclaim the Biodiversity Act

Stop the decline of Osprey and White Bellied Sea Eagle Breeding Territories and Australian Sea Lion Breeding Colonies

The Friends of Sceale Bay call on the Hon. Emily Bourke MLC, Minister for Climate, Environment and Water, to bring South Australia's new biodiversity law into force

SCEALE BAY, SOUTH AUSTRALIA: South Australia's Parliament passed the *Biodiversity Act 2025* and it received assent on 26 June 2025. Seventeen months later it has still not been proclaimed. Until it is, the Eastern Osprey, the White-bellied Sea-Eagle and the Australian Sea Lion of the Chain of Bays remain protected by a law written in 1972, a law that punishes harm to individual animals but does nothing to protect the cliffs, islands and coastline they need to survive.

We ask the Minister to fix a date for commencement now, and to bring the threatened species and critical habitat provisions into force first.

What is at stake in the Chain of Bays

The Chain of Bays, the coast between Streaky Bay and Venus Bay on the far west coast, is one of the last strongholds for South Australia's threatened coastal wildlife.

- **Eastern Osprey:** listed as Endangered in South Australia since 2008. Raptor expert Terry Dennis has identified up to eight active breeding territories along the Chain of Bays coast, making it critical to the species' survival in this State. Lacking tall trees, ospreys here nest on remote cliffs and island stacks.
- **White-bellied Sea-Eagle:** covered, with the osprey, by the 2022 South Australian Recovery Plan for Eastern Osprey and White-bellied Sea Eagle.
- **Australian Sea Lion:** Point Labatt Conservation Park holds the only permanent mainland colony of this endangered species, and Nicolas Baudin Island protects a critical breeding colony.

The decline is measured and continuing

Published surveys by Terry Dennis and colleagues show sharp losses of osprey breeding territories:

Area	Change	Source
South Australia (territories 2008–10 to 2015–17)	58 to 43: down 26%	Detmar & Dennis 2018

Area	Change	Source
West of the State, including the Chain of Bays (2010 to 2017)	33 to 22: down 33%	Detmar & Dennis 2018; DEW Recovery Plan 2022
Kangaroo Island (2010 to 2015–16)	14 to 8: down 43%	Detmar & Dennis 2018
South Australian breeding population	about 50 pairs (2024)	ABC News, 2 July 2024

The western population, which includes the Chain of Bays, has lost a third of its breeding territories in seven years. A population of around 50 breeding pairs statewide has no margin left for delay.

Australian Sea Lion breeding in the Chain of Bays

The Chain of Bays has three Australian Sea Lion breeding sites: Nicolas Baudin Island, Jones Island in Baird Bay, and Point Labatt, the only mainland breeding site on this coast. Surveys by Peter Shaughnessy (CSIRO, later the South Australian Museum), Terry Dennis and SARDI's Simon Goldsworthy show how few pups are born here each season.

Breeding site	Pups counted (survey year)	Source
Nicolas Baudin Island	12 (June 2007, part-season count); 98 (2006); 57 (2013); 70 (March 2019). Trend about −3% a year, 2006–2019	Shaughnessy 2007; Goldsworthy et al. 2016, 2020
Jones Island, Baird Bay	15 (2005); 15 (2007); 11 (2009); 12 (2012); 16 (2013); 19 (2014)	Goldsworthy et al. 2021 listing assessment
Point Labatt	2 (2013)	Goldsworthy et al. 2014

- **A shrinking species.** Australia-wide, only about 2,740 pups are born each breeding season, 82% of them in South Australia. Pup numbers fell 64% between 1977 and 2019, and South Australian sites are declining by about 2.6% a year (Goldsworthy et al. 2021, 2025).
- **The west coast is worst affected.** SARDI reports that colonies off the west coast of Eyre Peninsula have shown the greatest declines in the State (Goldsworthy et al. 2020).
- **Tiny colonies, no margin.** The Chain of Bays colonies together produce fewer than 100 pups a season. Females breed only every 17–18 months, so losses take many years to recover.

Bird flu: a new threat to the last breeding animals

- **H5 bird flu reached Australia in June 2026.** The first Australian Sea Lion death from the virus was confirmed at Seal Bay, Kangaroo Island, in September 2026. Four more, including a pup, tested positive at The Pages, a key breeding site, bringing the confirmed total to five by 21 September.
- **Not yet confirmed in the Chain of Bays.** No case had been reported at Nicolas Baudin Island, Jones Island or Point Labatt in the sources we found. Two dead sea lions on Liguanea Island, off southern Eyre Peninsula, tested negative.
- **Why the risk is so high here.** Sea lions breed in dense groups and are thought to catch the virus from sick seabirds on their breeding islands. Elsewhere, H5 has killed sea lions in their thousands: about 3,100 South American sea lions died on the coast of Peru. For a colony of 70 pups, or a site with just two, a single outbreak could wipe out the breeding population.

- **Disease on top of decline.** The Minister has said the South Australian population was already falling by about 2% a year before bird flu arrived, and the Government is seeking approval for a vaccine trial. Reducing every other pressure on these colonies, including disturbance and loss of habitat, is now more urgent than ever.

Why the 1972 law is not enough

- **It protects animals, not habitat.** The National Parks and Wildlife Act 1972 makes it an offence to "take" a protected animal or its eggs. It has no mechanism to identify and protect the habitat a threatened species depends on.
- **Nest buffers are only advice.** The 2022 Recovery Plan recommends a 1,000 m breeding refuge buffer around osprey nests and asks people to stay at least 500 m from breeding sites. These are recommendations, not law.
- **Disturbance is a recognised threat.** The Recovery Plan lists land management, recreation, commercial activity, drones and ill-timed research as causes of disturbance. Flushing adults during incubation or early brooding can kill embryos and small nestlings.
- **Penalties are dated.** The maximum is $100,000 or two years' imprisonment.

What the Biodiversity Act 2025 would change

Issue	Today (NPW Act 1972)	Once the Biodiversity Act commences
Critical habitat	No legal process to identify or protect it	A new process to identify and protect habitat critical to threatened species
Threatened species listing	Schedules 7–9 of the NPW Act (amended 2008)	A nationally consistent listing process (Part 6)
Duty of care	None	A general biodiversity duty: anyone whose activity may harm biodiversity must take all reasonable and practicable steps to prevent or minimise that harm
Penalties	Up to $100,000 or 2 years	Up to $250,000 or 5 years, expressly including "interfering" with a protected animal
Native vegetation	Separate Native Vegetation Act 1991	Brought into one framework with wildlife protection

For the Chain of Bays, critical habitat protection is the key change. It would give the nesting cliffs, island stacks and sea lion haul-outs legal protection, instead of relying on goodwill and guidelines.

The delay

- The Act received assent on 26 June 2025. It comes into operation only on a day fixed by proclamation.
- Government has indicated a staged roll-out over about two years. As at November 2026 no commencement date has been set.
- Consultation on draft regulations for the Act's four statutory bodies closed on 15 September 2026, so the groundwork is under way.

Every breeding season that passes under the old law is another season in which a nest site can be lost to disturbance or development with no habitat protection in place. Osprey nest selection runs from July to September and breeding from September to October: the 2026 season is already under way.

Call to the Minister

The Friends of Sceale Bay call on the Hon. Emily Bourke MLC to:

1. **Proclaim the Biodiversity Act 2025** and publish a firm commencement timetable.
2. **Commence the threatened species and critical habitat provisions first,** ahead of the full two-year roll-out.
3. **Prioritise the Chain of Bays for critical habitat** as soon as the process begins: osprey and sea-eagle nesting cliffs and island stacks, and the sea lion colonies at Point Labatt and Nicolas Baudin Island.
4. **Give legal force to the Recovery Plan's nest buffers** so the 1,000 m breeding refuge is a protection, not a suggestion.

The law has been passed. The species are declining. Proclaim the Act.

About the Friends of Sceale Bay

The Friends of Sceale Bay are a dedicated and active group of volunteers who have defended and promoted the outstanding environmental values of the Chain of Bays region on the far west coast of South Australia for more than 26 years. The Chain of Bays is a series of contrasting bays between Streaky Bay and Venus Bay, including Corvisart Bay, Sceale Bay, Searcy Bay and Baird Bay.

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