



12 November 2025

Committee Secretary  
Environment and Communications Legislation Committee  
Department of the Senate  
PO Box 6100  
Canberra ACT 2600

Via Email: [ec.sen@aph.gov.au](mailto:ec.sen@aph.gov.au)

## Submission to Senate Inquiry on Environment Protection Reform Bill 2025 and six related bills

Dear Committee Secretary,

The Chamber of Minerals and Energy of Western Australia (CME) is the peak representative body for the resources sector in Western Australia. CME is funded by member companies responsible for 24 per cent of Australia's company tax receipts in 2023-24.<sup>1</sup> In 2023-24, the WA resources sector accounted for 56 per cent of resources exports,<sup>2</sup> 52 per cent of resources capital expenditure<sup>3</sup> and 51 per cent of resources employment in Australia.<sup>4</sup>

The Chamber of Minerals and Energy of WA (CME) supports reform to the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) that simultaneously delivers the three reform objectives – better environmental outcomes, increased transparency and better business outcomes.

This reform is the chance to balance environmental, social and economic outcomes in a way that is aligned with broader government objectives, such as the net zero transition and the Future Made in Australia vision. Achieving these goals depends on effective and practical reform, since EPBC Act processes are often the critical first step in project feasibility assessments and final investment decisions (FID).

The introduction of the *Environment Protection Reform Bill 2025* and the six additional Bills (EPBC reform package) to Parliament and the Senate Inquiry represents the first opportunity CME has to provide feedback on the policy intent of the EPBC reform package.

Based on a preliminary review of the EPBC reform package, we have identified five priority areas where reform adjustments are required.

### 1. Unacceptable impact definition must be adjusted to provide clarity and avoid unintended consequences

The drafting of s.527F in the Reform Bill introduces significant complexity and uncertainty. The inclusion of 37 separate definitions, combined with the use of several undefined terms, creates ambiguity, appears to lower the threshold for unacceptability and does not draw a clear distinction between a 'significant impact' and an 'unacceptable impact'. This level of uncertainty could stall or block resource sector projects and renewable energy and decarbonisation projects needed to decarbonise our sector, throughout WA.

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<sup>1</sup> Excludes fringe benefits tax, petroleum resource rent tax and fuel excise duty. CME, [2023-24 Economic Contribution: Australia](#), March 2025; Commonwealth of Australia, [Final Budget Outcome 2023-24](#), The Treasury, 30 September 2024, Note 3: Taxation revenue by type, p 38.

<sup>2</sup> Government of Western Australia, [2023-24 Economic Indicators Resource Data File](#), Department of Energy, Mines, Industry Regulation and Safety, 29 October 2024.

<sup>3</sup> Investment refers to capital expenditure as measured by gross fixed capital formation, current prices. Australian Bureau of Statistics, [5220 Australian National Accounts: State Accounts](#), Table 25. Australian Bureau of Statistics, [5206 Australian National Accounts: National Income, Expenditure and Product](#), Table 34.

<sup>4</sup> Australian Bureau of Statistics, [6291 Labour Force, Australia, Detailed](#), Table 5.



There is opportunity to remove this ambiguity and simplify the legislative approach by replacing the 37 definitions with a single, clearly articulated definition of ‘unacceptable impact’ that avoids the use of undefined terms. Since this definition underpins the achievement of the three reform objectives it is critical that it be clear, practical and tested with a range of stakeholders.

## **2. All projects must have immediate access to more efficient assessment pathways**

The Independent Review of the EPBC Act – Final Report (the Samuel Review) noted that the average assessment time for resources sector project assessments that occurred over the period 2014 to 2019 were “too long”, at nearly three years. Long timeframes and duplicative State-Federal processes remain a significant barrier for business and investment in Australian projects. In our view, delivery of the better for business reform objective, is dependent on the reform ensuring all proponents can access more efficient assessment pathways that deliver the agreed environmental outcomes.

It remains unclear how the EPBC reform package will substantially improve the efficiency of project assessments across a broad suite of projects, including resources sector projects. Given there has not been time to test how different resources projects would progress through assessment under the reformed framework, it is uncertain whether mining projects would qualify for consideration under the Streamlined pathway. This uncertainty persists despite the inclusion of new requirements such as demonstrating that projects will not have an unacceptable impact, clearly applying the mitigation hierarchy, meeting the proposed National Environmental Standards, and satisfying net gain tests - and therefore creates uncertainty whether the intended business benefits of the reform will be realised.

CME seeks a clear commitment from the Federal Government to work with states to target accreditation of States for both assessments and approvals within six months of the legislation coming into effect. We believe this approach presents the greatest opportunity to deliver meaningful efficiency gains while maintaining environmental outcomes and transparent assessment processes.

While accreditation is being progressed, CME recommends retaining the current ‘mid-tier’ assessment pathways (e.g. preliminary documentation) alongside the introduction of the new ‘streamlined’ pathway.

In addition, we recommend all assessment pathways must be further developed and tested in parallel with the development of National Environmental Standards. A mechanism should also be implemented to transparently monitor end-to-end assessment timeframes and establish clear efficiency metrics to support continuous improvement, supplemented by a 12-month review process.

## **3. Compliance and enforcement mechanisms must be proportionate and include principles of natural justice**

Compliance and enforcement mechanisms should uphold environmental integrity, deter and punish wilful breaches, support compliance resolution where inadvertent breaches have or could occur, and avoid a disproportionately punitive approach. In our view, the proposed measures fail to achieve this proportionality by applying onerous and significant compliance consequences on civil offences.

While we are supportive of Environmental Protection Orders (EPOs) being used where there is evidence of a risk of serious or material environmental harm occurring and it appears from policy documentation that the intent is for EPOs to be issued for major ‘non-compliances’ only. However, the drafting appears to broaden the application to all non-compliances and could result in EPOs being issued for administrative breaches that have no environmental consequence. This creates significant project and investment risk, which may deter investment in new and existing WA resources sector developments.

To avoid these risks, CME recommends the natural justice exemption must be removed and guardrails adopted to allow proponent input as part of the EPO process. Additionally, the penalty regime should be tiered to distinguish between wilful or egregious breaches and minor and/or administrative breaches.

## **4. Adjust net gain test to avoid unintended consequences**

Whilst CME is not opposed to the net gain concept in principle, the current drafting appears ambiguous and is likely to create significant challenges due to its subjective and interpretative nature. Since the



practical application of this test depends on the future development of other reform elements, there is considerable uncertainty regarding its outcomes and workability, particularly at a project level scale.

For example, it is unclear how the test could be demonstrated across all Matters of National Environmental Significance (MNES), such as World Heritage areas, nuclear actions, and migratory species. There is also a lack of clarity as to whether the test will apply to the residual significant impact for each protected matter, to the project as a whole, or at a landscape scale.

CME therefore recommends that the test be designed to operate at a landscape scale, rather than being applied to the residual significant impact of each individual protected matter. Robust consultation should be undertaken to clarify the requirements, assess implications for the three reform objectives, and ensure that a broad range of stakeholders are engaged in shaping both the policy intent and delivery mechanisms. This will be critical to providing early certainty for proponents, avoiding project delays, and ensuring that the test achieves the intended balance between environmental outcomes and efficient project delivery.

## 5. Climate disclosures must not be part of assessment decision making

CME strongly welcomes the Federal Government's commitment, which is consistent with the recommendations of the Samuel Review, to avoid regulatory duplication in the form of a climate trigger.

CME recommends further adjustments to proposed disclosure requirements in the EPBC reform package, to ensure definitions and calculation methodologies are fully aligned with those used under the National Greenhouse and Energy Reporting (NGER) Scheme and Safeguard Mechanism.

Further, CME recommends integrating climate disclosure requirements into the data and information functions of Environment Information Australia to support an aligned approach to data management and ensure disclosures do not form part of assessment decision making.

## Conclusion

Given the complexity of the EPBC Reform package and the limited time available prior to the commencement of the Inquiry hearings, it has not been possible to undertake a comprehensive review at this stage. CME seeks to provide further information to support opportunities to progress the three reform outcomes.

We look forward to supporting the development of the EPBC reform package and providing further information following a more comprehensive review to assist the Committee with its recommendations.

Should you have any questions regarding this submission, please contact  
and we look forward to meeting with  
you again.

Yours sincerely,

**Brooke Fowles**

A/Chief Executive Officer