

14 November 2025

Committee Secretary
Senate Standing Committees on Environment and Communications
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To the Committee Secretary,

Re: BirdLife Australia Submission to the Senate Inquiry on Environment Protection Reform Bill 2025 and six related bills

BirdLife Australia welcomes the opportunity to make a submission to the Senate Environment and Communications Legislation Committee on the Environment Protection Reform Bill 2025 and six related bills.

Our position is that these reforms fall short in addressing the key drivers of habitat loss and species decline. We identified 8 key areas of the proposed Bills that need addressing to enable stronger environmental protection mechanisms, being:

1. Recovery Planning
2. Environmental Standards
3. EPA Governance
4. Civil Penalties
5. Environment Information Australia (EIA)
6. Exemptions
7. Offset Mechanisms
8. Ministerial Discretion

These are detailed in the attached submission, where we identify key priorities and targeted amendments within the proposed reforms, to enact stronger nature laws for Australian birds, and biodiversity.

Sincerely,

Kate Millar
CEO

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

About BirdLife Australia

BirdLife Australia is an independent grassroots charity, with over 360,000 supporters across Australia. We have been the voice for Australia's birds for over a century, protecting native birds and their habitats with on-ground projects and advocacy, informed by rigorous science and sound academic partnerships. Our conservation programs adopt a multi-species landscape-scale approach that is supported by thousands of volunteers and citizen scientists. The reform of Australia's national environmental laws to ensure the protection of Australia's threatened birds and their habitat is a key priority.

Australia is facing an extinction crisis, with one in six native bird species at risk. The Environment Protection Reform Bill 2025 and its companion legislation represent a critical opportunity to reverse decades of environmental decline. However, as currently drafted, the bills fall short of what is needed to halt extinctions, protect habitat, and restore nature.

This submission outlines targeted amendments to strengthen the legislative package and ensure it delivers on the Government's existing commitments — including ***no new extinctions and protection of 30% of land and sea by 2030***.

Key Recommendations

Theme	Key Recommendations
Recovery Planning	Mandate Recovery Plans for all listed species and ecological communities; Establish a statutory timeline for the development and review of Recovery Plans to ensure they remain current and relevant; Resource and implement them with enforceable habitat protections; Resource their monitoring, evaluation and learning. Require recovery and threat abatement plans; Ensure decisions cannot be made that are inconsistent with these plans.
Environmental Standards	Legislate binding National Environmental Standards; Mandate key standards (habitat, data, threatened species); Ensure enforceability.

EPA Governance	Establish an independent governing board; Constrain ministerial influence; Expand audit and enforcement powers.
Civil Penalties	Extend enforcement rights to third parties with standing, especially in cases of significant environmental harm.
Environment Information Australia (EIA)	Define “nature positive” with international integrity; Mandate monitoring of conservation plans; Formalise data sharing; Support landscape-scale planning.
Exemptions	Remove the Regional Forest Agreement (RFA) exemption or ensure RFA activities are bound by National Environmental Standards.
Offset Mechanisms	Reject “pay to destroy” offsets; Prioritise genuine habitat protection; Ensure net gain mechanisms are science-based.
Ministerial Discretion	Replace discretionary approvals with a rules-based system; remove override powers and industry exemptions

Introduction: The Urgency of Nature Law Reform

Australia is an avian wonderland, home to over 1,200 bird species — 45% of which are found nowhere else on Earth. Our landscapes and wildlife offer one of the most accessible and profound ways for people to connect with nature. Yet this extraordinary biodiversity is under threat.

In a rapidly changing climate, with accelerating habitat loss and declining ecological resilience, the outlook for our environment is deteriorating. Around one in six Australian birds is now at risk of extinction. This is not just a crisis of species — it is a crisis of governance, accountability, and national identity.

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), once considered a cornerstone of environmental protection, has failed to halt this decline. The 2020 Independent Review led by Professor Graeme Samuel concluded that the Act is ineffective and requires fundamental reform. The 2021 State of the Environment Report confirmed the worsening trajectory, and in 2022 the Federal Government committed to legislative overhaul. However, the Environment Protection Reform Bill 2025, in its current form, represents a failure to deliver on that commitment and will not adequately address Australia's extinction crisis. The Environment Protection Reform Bill 2025 is the culmination of this process — and represents a critical opportunity to reverse decades of environmental decline.

However, as currently drafted, the proposed reforms fall short of what is needed to protect Australia's unique biodiversity. They do not mandate recovery planning, fail to establish legally enforceable environmental standards, and risk perpetuating ministerial discretion and offset-driven habitat destruction. Without stronger laws, iconic species will continue to decline — and Australia will fall further behind its national and international commitments to halt extinctions and restore nature.

Recovery Planning and Conservation Frameworks

Recovery Plans are one of the most powerful tools available under the EPBC Act to protect and restore threatened species. They are formal legislative instruments that can identify critical habitat, prescribe actions, and bind ministerial decisions. Yet their potential remains unrealised.

- A staggering 77% of Australia's threatened birds lack an up-to-date, legally enforceable Recovery Plan, leaving them vulnerable to ongoing threats
- 14 out of 18 Critically Endangered bird species lack an up-to-date Recovery Plan
- Habitat loss is the leading threat to 1,210 EPBC-listed entities
- Recovery Plans are increasingly vague, under-resourced, outdated, and often weakened by jurisdictional and political considerations — as seen in the Swift Parrot Recovery Plan, where forestry threats were downplayed under pressure from Federal and Tasmanian interests.

The proposed reforms do not mandate Recovery Plans. Instead, their development remains subject to ministerial discretion. This undermines accountability and leaves species without the protections they urgently need.

Worse still, the reforms not only fail to mandate Recovery Plans but introduce provisions that diminish their effectiveness. A deeply concerning change allows the Minister to prepare and finalise a Recovery Plan for only part of a species' population or a component of a threatened ecological community. While this could help address regional threats, such plans must align with and complement holistic National Recovery Plans for the species.

Another troubling provision gives the Minister discretion to issue Protection Statements for listed species. If fully utilised and paired with mandated national Recovery Plans, these could be transformative. However, they must include mandatory information defining critical or irreversible habitat and significant impacts.

The reforms weaken existing safeguards by requiring only that the Minister 'not act inconsistently' with a Protection Statement and merely 'have regard to' a Recovery Plan. Current provisions requiring the Minister to act consistently with Recovery Plans must be retained.

Recommendations:

1. **Mandate Recovery Plans for all listed species, especially those facing ongoing habitat loss.**
2. **Resource and implement Recovery Plans with clear habitat protections.**
3. **Develop clear criteria for when Recovery Plans are required.**
4. **Resource and implement monitoring, evaluation, learning and adaptation to ensure Recovery Plans remain effective, current and relevant.**
5. **Develop clear criteria and mechanisms for rapid reviews and updates in response to stochastic events and rapidly emerging threats.**
6. **Ensure Recovery Plans include enforceable prescriptions to prevent habitat destruction.**
7. **Ensure existing provisions in the EPBC Act that require the Minister to not act inconsistently with a Recovery Plan are retained.**
8. **Ensure Protection Statements include definitions of critical/irreversible habitat and significant impacts to the listed species and complement, not override, Recovery Plans and Conservation Advices.**
9. **Embed evidence-based definitions of “habitat” and “critical habitat” in the National Environmental Standards for MNES, as proposed in the Conservation Planning Reform policy papers.**
10. **Ensure habitat descriptions are spatially mapped and jurisdictionally neutral, with regulatory weight in decision-making.**

Establishing National Environmental Standards

To ensure the proposed Environment Protection Australia (EPA) can deliver robust, outcomes-focused environmental decisions, it must be guided by a clear, enforceable framework of National Environmental Standards.

These Standards are essential to:

- Provide clarity and consistency in decision-making
- Translate policy objectives into measurable protections

- Enable national alignment across jurisdictions
- Empower the EPA to enforce compliance against clear benchmarks

The current Bill enables Standards but does not require them or make them binding. These risks perpetuating ambiguity and discretionary loopholes.

Recommendations:

1. **Create a legislative framework for the development and enforcement of National Environmental Standards.**
2. **Mandate key Standards, including those for data, habitat protection, and threatened species.**
3. **Ensure Standards are binding on all decision-makers.**
4. **Ensure Standards are binding to all activities that may impact matters of national environmental significance, including Regional Forest Agreements.**
5. **Require public consultation and scientific input in their development.**

Strengthening the Environment Protection Australia Bill

The Environment Protection Australia (EPA) Bill 2025 establishes EPA as a statutory, non-corporate Commonwealth entity tasked with administering environmental law. While this is a welcome reform, the Bill does not yet guarantee the independence, authority, or transparency required for EPA to be effective.

BirdLife Australia's 2024 recommendations remain directly relevant, as the structural limitations identified then persist in the 2025 version.

Key Recommendations

1. **Establish Independent Governance**
 - Create an independent governing board of suitably qualified members
 - Require the board to report to a joint parliamentary committee and oversee CEO selection
2. **Clarify Advisory Committee Structure**

- Define criteria for Advisory Committee membership
- Mandate publication of appointments and advice to ensure transparency

3. Embed Clear Objectives and Purpose

- Provide EPA with stand-alone legislative guidance on its role in protecting nature
- Ensure objectives include efficient, outcome-focused decision-making, strong community engagement, and robust enforcement
- Constrain the Minister's Statement of Expectations to align with the legislative purpose of the Acts EPA administers

4. Expand Oversight and Audit Powers

- Grant EPA assurance and compliance audit functions for accredited arrangements, including NOPSEMA

5. Broaden Civil Penalty Enforcement

- Extend the right to seek civil penalties to third parties with standing, especially where significant environmental harm has occurred

Strengthening the Environment Information Australia Bill

BirdLife Australia welcomes the creation of Environment Information Australia (EIA) and has actively contributed to its development through collaboration with the Department's Biodiversity Data Repository. However, the 2025 Bill does not yet provide the legislative clarity or accountability required for EIA to fulfil its role.

BirdLife Australia's 2024 submission on the EPBC reform process emphasised the need for EIA to support landscape-scale environmental assessments and to ensure that projects are not approved in the absence of adequate ecological data. These recommendations remain unaddressed in the current Bill.

The FOI planning reform documents reinforce the need for EIA to maintain and apply high-quality species distribution models and habitat mapping, drawing on validated data from state repositories, citizen science (e.g. Birddata), and proponent surveys. These models must underpin Recovery Plans and inform regulatory decisions.

Key Recommendations

1. Define 'Nature Positive' with International Integrity

- Adopt a robust and internationally aligned definition of 'Nature Positive' consistent with the Kunming-Montreal Global Biodiversity Framework, ensuring it commits Australia to halting and reversing biodiversity loss by 2030.
- Ensure the definition enables meaningful assessments of biodiversity conservation and restoration progress.

2. Mandate Monitoring of Conservation Planning

- Explicitly task EIA with monitoring and evaluating the development, implementation, and impact of all conservation plans under the EPBC Act and its successor, including: Australia's National Biodiversity Strategy and Action Plan; National Recovery Plans and Conservation Advices, and their equivalent or successors.
- Require EIA to report annually to Parliament on conservation planning performance

3. Embed Practical Data Sharing in Legislation

- Formalise mechanisms for real-time, standardised data sharing across jurisdictions.
- Ensure integration of citizen science datasets like Birddata into national biodiversity monitoring.

4. Ensure Landscape-Scale Planning Integration

- Require EIA to support coordinated, landscape-scale environmental assessments.
- Prevent projects from proceeding without adequate ecological data and cumulative impact analysis.

5. Mandate Cumulative Impact Assessment with a Focus on Critical and Irreplaceable Habitat

- The EIA must be required to assess cumulative impacts across bioregions, migratory corridors, and threatened species habitats, with explicit identification and protection of irreplaceable and critical habitats.
- Irreplaceable habitats are ecosystems that cannot be restored or offset due to their age, complexity, or unique ecological function.

- Critical habitats are habitat necessary to ensure the long-term future of the species including use for reintroduction; essential life cycle requirements such as foraging, breeding, nesting and roosting; habitat connectivity; or used by important populations or necessary to maintain genetic diversity.
- The ongoing clearing of critical Baudin's Black-cockatoo nesting and foraging habitat for bauxite mining illustrates this failure. Centuries-old hollows in these forests are irreplaceable and are documented as critical habitat in the Forest (Baudin's) Black Cockatoo Recovery Plan; assuming they can be 'managed' or 'offset' is a direct pathway to extinction.

6. Integrate Climate Change into Environmental Data and Decision-Making

- Embed climate change considerations into EIA's monitoring and reporting functions, including:
- Identification of climate refugia.
- Tracking of climate-related habitat shifts.
- Integration of emissions thresholds into project assessments.
- Mandate the consideration of climate change impacts on species and ecosystems in all environmental assessments and approvals.
- BirdLife Australia's 2024 position highlighted the need for climate-informed biodiversity governance — a gap that remains in the 2025 Bill.

7. Support spatially defined habitat and critical habitat mapping

- Ensure EIA maintains and publishes habitat maps as part of Recovery Plans (or their equivalent), consistent with the proposed National Environmental Standards.
- Require that mapped critical habitat be discoverable via tools like the Protected Matters Search Tool and used to trigger regulatory protections.

Exemptions

The reform package fails to address major industry exemptions, notably Regional Forest Agreements (RFAs) — 20-year deals between Federal and State governments that permit timber harvesting in designated native forests. Activities under RFAs that impact matters of national environmental significance remain exempt from EPBC Act assessments and approvals. This

exemption has had devastating consequences for threatened species, including the Critically Endangered Swift Parrot. Despite being listed as a 'Priority Species' under the Tasmanian RFA and its breeding habitat identified as 'critical to survival' in the 2024 National Swift Parrot Recovery Plan, this habitat has been routinely logged for over 25 years.

Recommendations:

- 1. Remove the Regional Forest Agreement exemption under the EPBC Act.**
- 2. Ensure forestry activities are bound by legally enforceable National Environmental Standards.**

Ministerial Discretion and EPA Decision-Making

The greatest threat to the integrity of these reforms is the retention of ministerial override powers through a vaguely defined 'national interest' provision — the critical flaw in the proposed Bills. While the legislation aims to establish a rules-based system where an independent EPA can reject projects with unacceptable environmental impacts, this clause allows the Minister to override evidence-based decisions for political or economic reasons. In effect, it permits approval of critical or irreversible habitat destruction under the banner of 'national interest,' perpetuating the core failure of the current EPBC Act.

BirdLife Australia supports provisions prohibiting the EPA from approving actions that compromise critical or irreversible habitat or species viability, as outlined in the draft National Environmental Standards. However, FOI-released planning documents confirm the Minister may still override EPA decisions on socio-economic grounds — even where critical or irreversible habitat is at risk.

This undermines the reforms and contradicts the principle of rules-based decision-making. BirdLife Australia reiterates its 2024 position: ministerial override powers must be removed to ensure environmental outcomes are not subordinated to discretionary trade-offs.

Recommendations:

- 1. Remove ministerial override powers that allow approval of actions with unacceptable impacts on critical or irreversible habitat**
- 2. Ensure EPA decisions are binding and based on legislated environmental thresholds**
- 3. Require that all decisions affecting critical or irreversible habitat be consistent with Recovery Plans (or equivalent) and National Environmental Standards**

Opposition to ‘Pay to Destroy’ Offset Mechanisms

The proposed restoration and charges bills enable financial contributions in lieu of direct environmental protection. This model risks entrenching habitat destruction and undermines the principle of ecological integrity.

Recommendations:

1. **Reject offset schemes that allow destruction of irreplaceable habitat.**
2. **Prioritise genuine habitat protection over financial substitution.**
3. **Ensure any net gain mechanisms are science-based and precautionary.**

Alignment with the Environment Protection Reform Legislative Package

Building on the concerns outlined above, the table below maps this submission’s recommendations against the key components of the Environment Protection Reform Legislative Package. It highlights alignment, identifies gaps, and pinpoints clauses where amendments are required.

These recommended changes are essential to ensure the reform package delivers robust, enforceable protections for biodiversity and addresses critical gaps in accountability, governance, and ecological resilience.

Submission Theme	Relevant Bill(s)	Alignment and Commentary	Relevant Clause(s)
Mandated Recovery Plans	Environment Protection Reform Bill 2025	The Bill not only fails to mandate Recovery Plans for all listed species but actively weakens their integrity. It grants the Minister a new discretion to create plans for only a part of a species' range, creating a loophole to approve destruction in unprotected areas. This	Schedule 1, Item 96 – Section 34D

		submission recommends mandating comprehensive, whole-of-species plans.	
Legally Enforceable National Environmental Standards	Environment Protection Reform Bill 2025	The Bill enables Standards but does not require them or make them binding. This submission calls for a legislative framework that mandates key Standards and ensures enforceability.	Section 33 and 33C
Independent EPA with Binding Powers	National Environmental Protection Agency Bill 2025	The Bill establishes the EPA but does not guarantee its independence or decision-making authority. This submission recommends statutory governance safeguards and expanded audit powers.	Sections 10–20 (recommend expansion)
Cumulative Impact Assessment	Environment Information Australia Bill 2025	The Bill does not mandate cumulative impact analysis. This submission recommends legislative amendments to require EIA to assess cumulative impacts across bioregions and migratory corridors. Reflects BirdLife Australia’s 2024 position.	Recommend new clause in Part 3
Climate Change Integration	Environment Information Australia Bill 2025	The Bill lacks provisions for climate-informed biodiversity governance. This submission recommends embedding climate refugia mapping, emissions thresholds, and climate risk tracking into EIA’s functions.	Recommend