



AUSTRALIA

SUBMISSION

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

The World Wide Fund for Nature-Australia (WWF-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.

WWF-Australia is part of the WWF International Network, the world's largest independent conservation organisation. WWF's global mission is to 'stop the degradation of the planet's natural environment and to build a future in which humans live in harmony with nature'. WWF-Australia has offices around Australia and is backed by our 1.2 million supporters.

In this submission we make recommendations on improvements to the Government's proposed environmental legislation reform package (referred to as the "Bills"):

- *Environment Protection Reform Bill 2025 (amendments to the current Environment Protection and Biodiversity Conservation (EPBC) Act 1999);*
- *National Environmental Protection Agency Bill 2025;*
- *Environment Information Australia Bill 2025;*
- *Environment Protection and Biodiversity Conservation (Restoration Charge Imposition) Bill 2025;* and
- three related bills (not discussed in this submission).

Context

Nature is essential to our well-being and survival. It provides the air we breathe, the water we drink and the food we eat. Nearly half of our \$900 billion GDP depends on nature¹, so a healthy natural environment is critical to our prosperity as a nation. But nature is being destroyed, and the nature crisis is worsening.

At least 100 species of endemic plants and animals have been made extinct since colonisation² – with the Christmas Island Shrew being the latest species to be declared extinct, just this year³. Since 2022, we have added more than 200 species to the threatened list bringing the total to more than 2,100 species and ecological communities at threat of extinction^{4,5}. The 2021 State of the Environment report⁶ set out in detail this picture of accelerating species extinctions and failing environmental protections with most biodiversity indicators declining.

Climate change is accelerating nature decline, and the ongoing destruction of nature including deforestation is accelerating the climate crisis. These two intertwined challenges are two of the biggest risks facing humanity^{7,8}, and their negative consequences are being felt everywhere across the economy, society and in peoples' everyday lives. Yet Australia still has one of the highest rates of land clearing in the world. On average an area the size of a large football

field is bulldozed every 2 minutes in Australia⁹. Since the EPBC Act was introduced 25 years ago, 7.7 million hectares of threatened species habitat has been destroyed¹⁰, an area larger than the state of Tasmania.

The EPBC Act is enabling this ongoing destruction. We know the Act is broken – and this was the conclusion of Professor Graeme Samuel who led a comprehensive review of the Act five years ago¹¹. He said: “Australia’s natural environment and iconic places are in an overall state of decline and are under increasing threat. The EPBC Act is ineffective. It does not enable the Commonwealth to effectively protect environmental matters that are important for the nation. It is not fit to address current or future environmental challenges.” He explained that the “complex and cumbersome” Act “adds costs to business, often with little benefit to the environment”.

Quite simply the EPBC Act fails to protect nature while also failing to give business the certainty it needs. Reform of the current Act is critical, if we are to give nature any hope. This is the first real opportunity in its 25 years of existence to make the big changes that are needed to do this. The Bills are a positive step in that direction but in their current form are inadequate – substantial changes are needed if these Bills are to protect nature.

The current Bills are not yet good enough to protect nature

WWF, together with our colleagues in the Places You Love Alliance, have long advocated for reform that strengthens our failed EPBC Act. We support the intent of the Samuel review, and we welcomed the Government’s Nature Positive Plan¹² that set out the government’s response to it. After an unsuccessful attempt in 2024, it is pleasing to see the Government get to this stage in the process – a package of Bills in the parliament, supported by two draft standards.

This proposed reform package is not as broad as the Samuel review recommendations. The current Bills (and draft standards) have a singular focus on the EPBC Act role in development approvals, rather than Samuel’s broader advice on how the EPBC Act can be modernised to tackle nature repair and restoration, with guidance from First Nations peoples and clear outcome reporting – which would have been preferred.

Despite this, the Bills (and standards) present an opportunity to strengthen nature protections - to help slow the degradation of our precious environment - and improve business certainty through more predictable decision-making and streamlined assessment processes. Nature protections must be strengthened as a result of these reforms. This requires clear upfront rules to protect nature, an independent regulator to apply these rules and improved environmental data for planning and reporting. With the right approach these three elements provide benefits for business as well as nature.

There are elements in the Bills that we support and have been advocating for over a long period:

- Unacceptable impacts and critical habitat definitions;
- National environmental standards, including a non-regression clause;
- The mitigation hierarchy and a net gain requirement;
- The concept of protection statements (in lieu of broader conservation planning reform);
- Establishment of an EPA and increased enforcement penalties; and
- Establishment of Environment Information Australia.

These elements provide important improvements over the current Act but are undermined by Ministerial discretions that erode the Samuel intent of consistency and certainty. The Bills do not address deforestation loopholes and do not address climate harms – these are notable omissions that must be addressed in the final legislation. The package has potential but is not yet in a fit state to protect nature. However, we believe this is achievable and we are confident that with targeted amendments and the identified additions the package could be a significant improvement over the current, failed EPBC Act and help to slow the decline of our precious plants, animals and unique places like our iconic Great Barrier Reef.

Key issues requiring attention

We are advocating for amendments to the Bills in parliament by addressing:

- Deforestation
- Discretions, exemptions and wide-open provisions
- Offsets, in particular loose restoration contribution fund rules
- Climate harm to Matters of National Environmental Significance (MNES)
- Strong clear outcome-based standards

Addressing deforestation

The EPBC Act, including unacceptable impact criteria and national environmental standards, should apply consistently to all significant impacts on MNES. Exemptions that enable the opposite should be removed.

1. *Remove exemption for continuous use that enables agricultural deforestation and improve regulatory compliance.*

Millions of hectares of forest and woodlands have been cleared since the EPBC Act commenced in 1999, primarily as conversion to pasture. Australia committed to "...enhanced efforts towards halting and reversing deforestation and forest degradation by 2030,..." at Climate COP28¹³, yet the Bills fail to provide stronger regulatory mechanisms to achieve this. The Climate Change Authority advised reductions in deforestation as a pathway to contribute towards a 2035 emissions reductions target. Clearing on this scale undermines Australia's climate targets. We estimate deforestation and native forest logging contribute approximately 50 MtCO₂-e p.a. to Australia's gross domestic emissions. Much of this agricultural clearing includes threatened species habitat or is within the catchment of the Great Barrier Reef (almost 150,000 ha in 2022/23 alone¹⁴). Land-based runoff, including the release of sediments from land clearing, is a 'major contributor to poor ecosystem health in the Reef¹⁵. We recommend removing the exemption for continuous use that enables deforestation in the reef catchment and significantly impacts threatened species and accompanying this with a monitoring program to improve compliance.

2. *Remove or amend Regional Forest Agreement exemption so that native forest logging is subject to national environmental standards and other requirements of the Act.*

In NSW between 2000 and 2022, 150 forest-dependent threatened species were impacted by logging, including 13 Critically Endangered species and 51 Endangered species. RFAs are meant to protect these species from significant impacts but they have failed. To illustrate, the NSW EPA and community advocates have successfully prosecuted the state-owned Forestry Corporation NSW for numerous breaches of the state's forestry code for failing to protect endangered koalas and greater gliders; a similar pattern of breaches played out in Victoria prior to their cessation of native forest logging there. Setting clear standards to protect MNES together with a national EPA to ensure compliance with these standards is a more efficient and effective approach and ensures nationally threatened species are not pushed further towards extinction through forestry processes.

Discretions, exemptions and wide-open provisions

Samuel argued the Act needs to deliver certainty, clarity and consistency. To achieve this you need clear rules, deliberately and consistently applied, so they deliver for the environment and for business. A limited national interest exemption is reasonable but having other discretionary provisions and/or language complicates, obfuscates and undermines this aim. We are also concerned with some of the provisions that have been written in a way that are very open ended and could be used far too widely.

3. *Limit the national interest exemption to national emergencies and remove the National Interest Proposals provision*

We understand the need for a national interest exemption, but it needs to have tight guardrails to avoid it being misused into the future. The Samuel review (Recommendation 3(c)) offered sensible safeguards which we support. The new 'national interest proposals' power is unconstrained, unnecessary and potentially compromises the application of standards, unacceptable impacts and other protections. The existing national interest exemption is sufficient.

4. Remove (or constrain) the new rulings provision

This is a new power for the Minister (or EPA CEO) to determine how the Act applies, and as it is unconstrained could be used to undermine environmental protection. This needs to be removed or at least limited so it does not undermine nature protections including unacceptable impacts and is consistent with the standards.

5. Restrict streamlined assessment pathway (and other streamlining provisions) to lower risk activities, with adequate assessment of impacts and community consultation

The new streamlined pathway is a sound idea but is currently too broad and undefined, with potential to undermine nature outcomes. It requires a standard of impact assessment and consultation to be defined and mandated. We recommend excluding higher risk activities from this pathway. We also request government commit to developing a Community Engagement Standard that can be applied to the streamlined pathway.

Similar to the streamlined pathway concerns:

- the new provisions allowing 'minor variations' to strategic assessments are too broad;
- the amended bilateral accreditation arrangements require stronger proactive assurance from the National EPA, regular reviews, clear criteria and Ministerial response requirements to ensure that MNES are protected consistent with standards and other provisions of the Act; and
- the new National and Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) accreditation provisions which appear to weaken the current arrangements require stronger upfront and ongoing protections of procedural rights and environmental protection.

Offsets: loose restoration contribution fund rules

The principles in the draft Offsets Standard are sound, best practice and include Samuel's advice regarding ecological feasibility. However, the new option to pay a 'restoration contribution charge' in lieu of securing an actual offset would undermine several of those key principles and lead to poor, potentially perverse outcomes for nature. This approach is too flexible and high risk. We should learn from the NSW and Queensland use of offset funds, both of which have failed.

6. Restrict the use of restoration contribution offsets and ensure they are consistent with offset principles

The ability to pay money into a fund is not offsetting; it is essentially 'payment for destruction' and is a regression from the current policy. We are not opposed to the use of a fund, however only if all the best practice, high integrity offsets principles are adhered to. There are several ways this can be achieved, but there is currently no evidence this will be the case and no safeguards to avoid poor outcomes for the environment. We recommend that the Restoration Contributions Holder must spend restoration contribution charges consistent with the offset principles (in the standard).

Protecting MNES from climate harm

Climate change is an existential threat to most MNES, including threatened and migratory species, ecological communities, wetlands and World Heritage Areas, yet it is barely mentioned in the Act.

7. Require climate change impacts to be considered in approval decisions and prevent devolution of the water trigger

The Bills are currently inadequate and insufficient for protecting MNES from climate harm and do nothing to address the climate science which makes it very clear that any new coal and gas approvals and extensions harm

nature. The Bills introduce a requirement to disclose scope 1 and 2 emissions, we recommend extending disclosure to downstream scope 3 emissions as well.

The Bills should be amended to require that climate change impacts are considered in all development assessment decisions as a mandatory consideration, and more broadly, that climate change is considered in all decisions under the Act. We also recommend maintaining the limitation in the current Act preventing devolution of the water trigger through accreditation processes such as bioregional plans, to maintain stronger Commonwealth oversight over large scale coal and unconventional gas projects.

Strong, clear, outcome-based standards

Legally enforceable standards were the centrepiece of the Samuel review: a mechanism to describe the environmental outcomes to be achieved through planning, regulation and investment and to ensure decisions contribute to those outcomes. Professor Samuel called for “outcomes-focused law” which “requires the capacity to effectively monitor and report on these outcomes, and to understand the difference made by management interventions”. However, there are no measurable outcomes articulated in the reform package nor a responsibility to monitor or report on outcomes.

8. Require standards to set measurable outcomes and establish a framework for measuring and reporting against outcomes

The Bills should be amended to ensure a measurable outcome is defined in the MNES Standard and the EPA should include an obligation to provide assurance against the outcome. A framework for measuring and publicly reporting against outcomes needs to be developed and include the ability to evaluate different mechanisms and protection arrangements including standards, unacceptable impacts, net gain test, offsets (including the restoration contributions fund) and bioregional plans.

Other important issues

Bioregional plans: these need a clear plan and pathway for conservation zones to protect and conserve MNES into the future, as this is completely lacking, unlike the development zones pathway which enables streamlined development. Otherwise, there will be no actual conservation outcome.

Aboriginal and Torres Strait Islander kinship relationships: we support recommendations by leading ecologists Dr Chels Marshall and Dr Jodi Edwards to amend Division 3 (Whales and other Cetaceans) ‘to explicitly recognise Aboriginal kinship relationships with whales as part of the legislative basis for whale sanctuary designation and management’. For further detail, please refer to formal correspondence on this matter to the Minister, from Drs Marshall and Edwards, supported by WWF-Australia, Greenpeace Australia Pacific and the Australian Marine Conservation Society¹⁶.

Recovery plans/protection statements: as indicated above protection statements are a good idea, however as currently written they could undermine recovery plan, threat abatement plan and conservation advice requirements. Protection statements need to provide equal or greater protection than recovery plans and conservation advices. The existing requirements to not act inconsistently with recovery plans or threat abatement plans needs to remain.

Environment Information Australia: in addition to regular public reporting on environmental trends, the EIA should be required to regularly report against Australia’s progress on the Global Biodiversity Framework, including Australia’s Strategy for Nature and progress towards the goal of halting and reversing biodiversity loss by 2030 and restoring nature by 2050 against an established baseline.

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