



**Humane
World for
Animals™**

Formerly called
Humane Society International

Submission on the Environment Protection Reform Bill 2025

Submitted to the Environment Communications Legislation Committee,
November 2025

Introduction

Humane World for Animals welcomes the current parliamentary opportunity to reform the *Commonwealth Environment Protection Biodiversity Conservation (EPBC) Act 1999*. Humane World has invested heavily to secure listings for threatened species and ecological communities under the EPBC Act through our scientific nomination program. We undertook this work so that these nationally threatened animals and their habitats are protected in law as Matters of National Significance (MNES). Successive governments have failed to use the current legislation effectively to provide that protection to MNES. Consequently, nature on our continent and in its surrounding oceans is in crisis and the laws require an urgent reset.

Reform is needed to remove the discretion in the Act for poor decisions, and to compel consistent decision making which prioritises protection for MNES. The Act must be made less porous to political pressures. Out of date exemptions must be removed, and broad new exemptions should not be added. The Commonwealth should retain responsibility for decisions that significantly impact MNES rather than devolve approval powers to states and territories with inadequate safeguards. On these critical reform imperatives, the Governments package of Environment Protection Reform bills will fail without significant amendment.

There are initiatives in the Government's reforms that have the potential to be very positive. These include the new National Environment Protection Agency with associated powers and increased penalties, the National Environment Standards (NES) and the definition of unacceptable impacts. But these initiatives will not be positive without amendments to ensure they are not undermined by exemptions, ambiguous language or continuing broad discretion.

The reforms include some modest improvements to way the Act regulates wildlife trade but misses an important opportunity to take this further.

Humane World recommends the following amendments to the *Environment Protection Reform Bill, 2025*.

Decision maker discretion

The EPBC Act has principally failed because it gives decision makers too much discretion to make poor decisions. Decision makers are not compelled to prioritise protection for MNES over other interests. They are free to approve actions which cause their degradation and destruction, and for the impacts of those decisions to accumulate. Bad precedents have lowered the bar for decision making, such that an urgent reset is required. The bills include initiatives which, if strengthened, could constrain discretion and provide that reset:

- National Environment Standards
- A definition for 'unacceptable impacts'
- Net gain test
- Rulings

To be effective guard rails against bad decisions these provisions need amendment.

Humane World strongly supports National Environmental Standards (NES) to constrain the discretion that has readily allowed environmental destruction. However, we are very concerned that the NES will not succeed because the subjective and discretionary language included relating to their application weakens the protections they should provide and limits opportunities for scrutiny.

The test for application of the NES is only to the "Minister's satisfaction". Since the point of the standards is to constrain inappropriate Ministerial discretion, we recommended a stronger objective test for applying the NES to decisions. (At the time of writing this submission we are still undertaking our review of the draft NES that have been published).

Similarly, objective tests, rather than ministerial satisfaction, are required for the net gain requirements and in relation to unacceptable impacts.

Humane World supports a definition of unacceptable impacts being enshrined in the law. However, we caution that the bar should not be set too high so that it creates a perverse outcome whereby actions that fall shy of the definition will be approved, even though they may be egregious and widely viewed as unacceptable by the community. To avoid perverse outcomes, in determining unacceptable impacts, it would be prudent to add that the definition does not limit the factors that may constitute unacceptable impacts, in order to ensure MNES are appropriately protected.

Rulings could be a useful tool to clarify matters like the interpretation and application of exemptions. However, they could also be used to undermine protections and could lead to ministerial overreach in interpreting the law, when that is the role of the courts. We recommend amendments to constrain rulings to be consistent with the objects of the Act, NES and definitions of unacceptable impacts, and not to allow any regression from protection statements, recovery plans, threat abatement plans and conservation advice.

It is highly concerning that the new system for national interest approvals would sidestep the standards and unacceptable impacts provisions. (See Exemptions below)

Exemptions

It is extremely disappointing that the reform bills perpetuate old exemptions and is alarming that new exemptions have been added.

The following exemptions should be removed or tightly constrained.

- Prior authorisations
- Continued use
- Regional Forest Agreement exemption
- National interest exemption
- National interest approvals

The continued use and prior authorisation exemptions have seen the federal government turn a blind eye to shark culling programs carried out by the New South Wales and Queensland Governments despite them targeting and repeatedly killing animals that are listed as nationally threatened species, and despite having a detrimental impact on the World Heritage Great Barrier Reef. These exemptions have also been interpreted to enable broadscale vegetation clearing by the agricultural sector. It is now 25 years since the EPBC Act commenced and much has changed to worsen the impacts these actions have on MNES. The continued use and prior authorisation exemptions should be repealed or tightly constrained so that impacts of shark culling programs and vegetation clearing on MNES are assessed.

Native forest logging and other actions undertaken under RFAs should no longer be exempt from assessment and approval under the EPBC Act and the new NES should apply. This is essential for the conservation of forest dependent species such as gliders, koalas, Leadbeater's possum, swift parrots and glossy black cockatoos.

Rather than constraining the national interest exemption, Humane World is alarmed by the proposed expanded new system for national interest approvals and the open-ended discretion that has been written into them. It is extremely concerning that the Government appears to be planning for national interest approvals to play a significant role in the legislation going forward. This is unwise and dangerous and we strongly recommend these provisions be removed from the bills. The existing national interest exemption has already been abused for political purposes to detriment of national threatened species of flying-fox, sharks and marine turtles. This exemption should be constrained to genuine emergencies, and the open-ended provision which says the minister is not limited in what can be considered in determining these exemptions should be removed, and certainly not replicated in a new expanded process.

Vegetation clearance

In 2001 Humane World secured the listing of vegetation clearance as a Key Threatening Process to EPBC listed threatened species and ecological communities. Since that time this threat to Australia's native animals has continued unabated. Ward et al 2019 found that that over 7.7 million ha of potential habitat for threatened species and ecological communities were cleared in the period 2000–2017. Of this clearing, over 93% was not referred to the Federal Government for assessment, meaning the loss was not scrutinized under the EPBC Act¹. The current reforms must take the opportunity for decisive action to ensure the EPBC Act captures and regulates vegetation clearance effectively. In addition to removing the

¹ *Lots of loss with little scrutiny: The attrition of habitat critical for threatened species in Australia*

Michelle S. Ward, Jeremy S. Simmonds, April E. Reside, James E. M. Watson, Jonathan R. Rhodes, Hugh P. Possingham, James Trezise, Rachel Fletcher, Lindsey File, Martin Taylor, September 2019, Conservation Science and Practice

exemptions, the Act must clarify ambiguity over the vegetation clearance that should be referred for approval. We recommend straight forward requirements to refer vegetation clearance over a certain threshold in areas where listed threatened species and ecological communities are known to occur.

Biodiversity offsets

Humane World welcomes the reforms to provide for a regulatory hierarchy for offsetting, including amendments to the legislation, the development of regulations and the development of NES for offsets which includes principles such as like-for-like, feasibility, security, additionality, direct and tangible, measurability, relevant area and commencement prior to impact are critically important. However, these important principles are completely undermined by the introduction of restoration contributions to which the principles need not apply. The Restoration Contributions Fund risks being the default option for developers to pay into and acting as a 'pay destroy fund'. If not removed altogether, it is imperative that the use of restoration contributions must be consistent with the offsets principles.

Further, there must be prompt feedback loops to ensure that residual actions are not permitted to impact MNES where offsets against those impacts are not available or not able to meet the principles.

Recovery plans/protection statements

Humane World has argued for Recovery Plans and Conservation Advice to give clear regulatory guidance for development approval decisions, such as directions not to clear critical habitat and to give guidance on what is considered critical habitat. The new Protection Statements appear to be intended to give that advice. A concern arises when the Protection Statements switch off or weaken the existing requirements for approvals decisions to 'not be inconsistent with' existing Recovery Plans or to have regard to Conservation Advice. Humane World's preference would be to upgrade the requirements for approval decisions to 'be consistent with' Recovery Plans and Conservation Advice and for there to be a requirement for them to give clear regulatory guidance for approval decisions.

We further recommend stronger reporting and accountability mechanisms for recovery outcomes for threatened species and ecological communities.

Wildlife trade

Humane World welcomes provisions in the bills relating to wildlife trade and the Convention on International Trade in Endangered Species (CITES). However, we are disappointed that the Government is not taking the opportunity to implement their election commitment to prohibit the import of hunting trophies from 20 species listed on CITES. We are also disappointed not to see amendments to the EPBC Act which would require that wildlife trade can only occur between 'fit and proper persons' and to tighten the definitions of activities that are permitted as 'non-commercial' trade, as was consulted on the reforms proposed during the last term of government. Humane World can provide further information on these matters to senators on request.

Preventing climate harm

Humane World contends that it is no longer tenable for the EPBC Act to have a blind spot when it comes to climate harm on Matters of National Environmental Significance. Again, Humane World for Animals was responsible for the listing of Climate Change as a Key Threatening Process under the EPBC Act and has been frustrated ever since with the failure of successive governments to enact a Threat Abatement Plan or other effective regulation to mitigate climate impacts on MNES.

The following are areas of concern relating to climate change in the reform bill:

- Disclosure of impacts
- Emissions Management Plans
- Water Trigger

The bills make a token concession to climate in requiring proponents to disclose scope 1 and 2 emissions. This is ineffectual without a subsequent requirement to consider climate impacts of those emissions on MNES in approval decisions. Climate considerations should be a requirement in approval decisions and should also include scope 3 emissions.

The bill requires emission management plans as part of disclosure but the requirement lacks rigour and the opportunity for scrutiny is absent. Criteria for the content of emissions management plans are required.

The bill proposes removing the limitation on accrediting state and territory processes to authorise approvals under the water trigger. Devolving this trigger will allow for easier approval of large-scale coal and gas projects and should be opposed.

Guardrails on ‘fast tracking’

The reforms contain multiple pathways for fast tracked development approvals including:

- Streamlined assessment pathways
- Bioregional plans
- Strategic assessments
- NOPSEMA accreditation
- Accreditation of state and territory processes for approval decisions

While we appreciate the reforms need to find efficiencies and streamlining for business interests, collectively these pathways present significant risks for the protection of MNES and strong safeguards need to be maintained or included. The following amendments are recommended.

Humane World does not support the accreditation of approval decisions for MNES to states and territories that are often ill-equipped to act in the national interest or compromised by conflicts with their own state interests. We consider state and territory accreditation to be the most dangerous and regressive feature of the reforms. If the parliament decides to take this step, objective tests are required for accreditation and much stronger assurance is required through regular reviews against specific criteria, with requirements for a Ministerial response. It is essential that third party enforcement mechanisms continue to apply to accredited approval decisions.

Humane World strongly objects to the new ability to devolve the water trigger given the national perspective that is required in managing the continent’s highly contested water assets. This should also be removed from the bills.

Bioregional plans should be an opportunity for landscape-scale protection for MNES and the broader environment. We are concerned bioregional plans, as envisaged in the reforms, are tools focused more on facilitating development rather than tools to prioritise landscape conservation. We recommend amendments for more rigorous assessment requirements for bioregional plans and for conservation zones to have strict requirements to comprehensively protect MNES and critical habitats. We further recommend the water trigger for federal approvals continue to apply in bioregional plans.

We recommend tightening of the amendments that relate to NOPSEMA accreditation, strategic assessments and streamlined assessment pathways.

Summary:

On balance Humane World for Animals is unable to welcome the reform package as an overall benefit for nature. We think the reforms include some positive initiatives, but amendments are required to ensure that those gains are meaningful and not undermined by broad discretion, ambiguous language and open-ended exemptions. We are disappointed by a number of missed opportunities to improve positive outcomes for nature in the reform package. We are also concerned that the gains as they are currently written do not outweigh the very grave risks to nature posed in the reforms, especially in devolving approval decisions to states and territories.

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About Humane World for Animals:

Humane World for Animals Australia works to create a more humane world where humans and animals live in harmony, and no animal suffers from the actions of people. Our mission is to work together to tackle the root causes of animal cruelty and suffering to create permanent change.

In addition to our policy and legal work on animal welfare and wildlife protection in Australia, Humane World coordinates a national network of 950+ wildlife carers and sanctuaries on private land called the Wildlife Land Trust.