



Environment Institute
of Australia and
New Zealand Inc.

POLICY SUBMISSION

Submission to the Senate Environment and Communications Legislation Committee

Inquiry into the Environment Protection Reform Bill 2025 and related bills

Submitted by:

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About EIANZ

The Environment Institute of Australia and New Zealand (EIANZ) is Australasia's peak body for environmental professionals. We represent 4,000 members and certified practitioners from a diverse range of technical professions including scientists, policy makers, engineers, lawyers, and economists. Our members are at the forefront of issues such as biodiversity and climate change, and many have direct experience of working with the current Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) as both administrators and proponents.

EIANZ's Certified Environmental Practitioner (CEnvP) scheme provides professional certification for environmental practitioners, ensuring high standards of competence, ethics, and professional conduct. Our certification includes specialist areas such as Climate Change, Ecology, and Social Impact Assessment, directly relevant to EPBC reform implementation.

This submission has been developed by a cross-section of EIANZ members with expertise in impact assessment, strategic environmental assessment and regional planning, ecology, and environmental accounting. It builds upon our previous submissions to government on EPBC reform, including our April 2024 submission on the Nature Positive reforms and our consistent advocacy for implementation of the Samuel Review recommendations.

Introduction

EIANZ welcomes the opportunity to provide this submission to the Senate Environment and Communications Legislation Committee regarding the Environment Protection Reform Bill 2025 and six related bills.

The EPBC Act has operated for over 25 years without substantive reform, despite two comprehensive statutory reviews (Hawke 2009, Samuel 2020) that delivered damning assessments of its effectiveness. EIANZ supported the findings of the Samuel Review and has consistently urged the Government to implement his recommendations in full. An earlier attempt at reform, built around the nature positive framework during the first term of the Albanese Government, was unsuccessful due to reported concerns from the Western Australian government and the resources sector. Concerningly, those proposed reforms disproportionately focused on biodiversity whilst relegating cultural heritage to secondary status.

The Samuel Review highlighted lagging and leading environmental outcomes in Australia: nature is not being protected, community and Indigenous engagement is deficient, decision-making is delayed and at times opaque, and administration and enforcement is inadequate or absent. There is no adequate central repository of useful environmental information. At best, the EPBC Act is slowing down the rate of harm to nature, not leading to repair and improvement.

EPBC reform represents, in contemporary policy language, a wicked problem to which there is no perfect solution. States and territories have significant jurisdiction and interests; society is wedded to high standards of living, economic growth, government services, employment, and personal wealth; and community environmental literacy is frequently trumped by cost-of-living concerns. Australia's overarching and aspirational climate and biodiversity

commitments require transformational change that goes beyond a 'working smarter, not harder' mentality.

At the highest level, EIANZ's objectives for EPBC reform are:

- Preserving and protecting Australia's environment, with particular emphasis on halting biodiversity decline
- Having an inclusive process that gives voice to Indigenous peoples and affected communities
- Avoidance of perverse environmental outcomes
- Creating administratively workable and efficient systems

This reform package is generally aligned with Samuel's recommendations but falls short in several important areas. If implemented as introduced, the package would lead to better and faster decision-making and improved environmental outcomes without environmentally detrimental effects. However, some areas lack detail and require trust that the Government will follow through as intended. Cultural heritage remains a poor relative, and climate change an EPBC orphan (albeit with its own separate policies and laws).

Assessment of the Reform Package

Pillar One: Preserving What's Precious

National Environmental Standards

The package provides the framework for National Environmental Standards to be developed as regulations. The standards will become the benchmark against which project acceptability will be assessed. The absence of draft standards in the package was initially disappointing, though consultation is now open on the two initial standards. We adopt a 'trust but verify' approach.

EIANZ supports the inclusion in the amendments of a no-regression principle that prohibits any change that would reduce environmental protections or compromise the quality of environmental data or consultation processes. We also support that each Standard must be reviewed within 18 months of commencement, and subsequently reviewed every five years, ensuring continuous improvement over time.

EIANZ recognises that the proposed bills target an achievable compromise that is less than what is needed to avoid further extinctions and loss of ecosystem function. We support a mechanism that enables standards to be progressively strengthened as we learn more about what is achievable and what is required to get there.

Recommendation 1: Ensure National Environmental Standards are science-based, subject to mandatory regular review, and include mechanisms for progressive strengthening as knowledge and capacity improve.

Unacceptable Impacts

Introduction of the 'unacceptable impacts' concept is supported by EIANZ. It is a key component of delivering better environmental outcomes and streamlining approvals. However, the approach to defining what constitutes an unacceptable impact for each Matter of National Environmental Significance (MNES) will require careful thought, must be backed by science, and must be able to change over time as species recovery trajectories change

(either for better or worse). The draft MNES standard clarifies that offsets cannot be applied to unacceptable impacts to make them acceptable, reinforcing the importance of this gatekeeping mechanism.

Recommendation 2: Definitions of 'unacceptable impacts' for each MNES must be scientifically robust, clearly articulated in the Standards, and subject to adaptive management as ecological conditions evolve.

Mitigation Hierarchy

EIANZ consistently advocates for the diligent application of the mitigation hierarchy, so we support its inclusion in the package. The critical watch-point is the ease with which proponents can 'move down' the hierarchy and/or pay for offsets in cases where there are no practical means to mitigate or offset impacts. Strong regulatory oversight will be essential to ensure the hierarchy is applied with integrity.

Recommendation 3: Establish rigorous gatekeeping mechanisms to ensure proponents cannot bypass avoidance and minimisation steps in the mitigation hierarchy without demonstrating genuine impracticability.

Net Gain

'Actions' that have a residual significant impact on MNES will need to satisfy the 'net gain test'. We support net gain as superior to the current no net loss position. EIANZ is interested in the clarity and potential ambiguity in how this is regulated. There are issues with both how net gain for a project benefits the broader ecosystem and how it will actually be calculated.

EIANZ notes that the proposed provisions still allow for loss of irreplaceable values (we would just be losing less than under the current trajectory). Once these values are gone, they cannot be brought back. Therefore, we encourage the Government to use other parts of the bill (e.g., unacceptable impacts, mitigation hierarchy, offset restrictions) to only allow losses with associated net gain offsets when there is a scientific basis to suggest those losses are actually offsetable (rather than irreplaceable). Recent research on ecological irreplaceability emphasises that some species, habitats, and ecological features cannot be restored, recreated, or replaced within ecologically relevant timeframes, and must serve as a first filter in identifying 'no-go' zones for development (Maron et al., 2025).

The administration of the restoration fund needs to learn from issues that have arisen with similar state-based schemes, including transparency in fund allocation, ecological effectiveness of investments, and long-term monitoring of outcomes.

Recommendation 4: Clarify net gain calculation methodologies, establish transparent criteria for determining offsetability versus irreplaceability, and ensure the restoration fund operates with robust governance and ecological accountability.

Pillar Two: A Power Surge for Productivity

Assessment Bilateral Agreements

The package simplifies the assessment process and provides single-touch accreditation to state and territory environmental assessments. 'Fast-tracking' benefits are most likely to be seen for less impactful projects, as complex projects will still run through the complete process. These reforms seem appropriate and aligned with the outcomes from the

productivity roundtable and concerns from resources and renewables sectors. Environmental professionals support these more efficient processes, provided environmental standards are maintained.

Recommendation 5: Ensure bilateral agreements include robust accreditation criteria and regular performance reviews to maintain environmental protection standards whilst achieving efficiency gains.

Regional Planning

The package enables the Minister to establish bioregional plans identifying both development and conservation zones. EIANZ has been supportive of this concept but is troubled by the poor uptake of similar provisions in the current Act. As outlined in Appendix B of our April 2024 submission on Nature Positive laws (<https://www.eianz.org/document/item/7601>), areas that fall between designated development and conservation zones—which have ongoing uses and may incur impacts—require a principles-based land use decision-making approach rather than simplistic binary zoning. The EIANZ approach has been more nuanced than the Government's appears to be. We are wary of a simple one-size-fits-all black-and-white planning approach.

Robust regional plans underpinned by impact assessment and strong community consultation are essential to navigating the social conflicts and unintended environmental impacts that may arise from a given project. Without careful regional planning, progress towards nature positive may be delayed or jeopardised by these flow-on effects.

Recommendation 6: Regional planning should be explicitly included in the National Environmental Protection Agency's (NEPA's) regulatory functions, and plans must be developed through comprehensive stakeholder engagement including local communities, Traditional Owners, and environmental practitioners.

Pillar Three: Cementing Reforms

Independent National Environmental Protection Agency

EIANZ supports Samuel's concerns with administrative inefficiencies and ineffectiveness in areas of approvals. Hence, we are generally supportive of the formation of NEPA with compliance and enforcement powers.

NEPA does not have a role in project assessments under the proposed structure. We would support NEPA having a role in assessing proposals, but also recognise that 'judgement' best practised at the political level will be required to determine whether to approve projects once it has been ascertained that the mitigation hierarchy and all minimum performance standards have been complied with.

As noted in our previous submission on the Nature Positive Bills, EIANZ is concerned by over-reliance on a single individual (the NEPA CEO) for compliance and enforcement. We recommended consideration of a board structure to allow for diverse perspectives and avoid undue reliance on one individual. This concern persists with the current reform package.

Recommendation 7: Consider embedding a Board into the NEPA structure to incorporate diverse independent perspectives into decision-making and mitigate vulnerability of sole accountability.

Recommendation 8: Clarify the exact functions of NEPA with respect to compliance and enforcement, and ensure the qualification requirements for the NEPA CEO refer to specialist qualifications in environmental law.

Projects in the National Interest

This 'get out of jail card' provision has been of concern to various commentators. The Government's response has been that its use would be rare and restricted (e.g., national defence and security). Some codification, rather than just examples, would be helpful to provide certainty and prevent inappropriate use of this override provision.

Recommendation 9: Codify clear criteria and limitations for the 'national interest' override provision to prevent mission creep and ensure transparency in its application.

Indigenous Advisory Committee

It appears First Nations engagement will be embedded in EPBC Act processes through a national environmental standard, which has not yet been released. The package requires the Minister to invite and consider comments from the Indigenous Advisory Committee before making, varying, or revoking a national environmental standard that relates to engagement with First Nations people.

Insufficient information is available to determine just how the reformed package will improve engagement with First Nations people. EIANZ emphasises the importance of meaningful consultation that goes beyond procedural requirements to genuine co-design and free, prior, and informed consent.

Recommendation 10: Ensure the National Environmental Standard on First Nations engagement includes meaningful consultation protocols, co-design principles, and recognition of Traditional Owner rights and knowledge systems.

Environment Information Australia

The package establishes Environment Information Australia (EIA) largely as a data collector, storer, and provider. However, EIA is no longer mandated to report on whether nature positive is being achieved, nor to determine a nature positive baseline. EIANZ saw a great opportunity for EIA in environmental accounting; this is not being realised through the package.

As noted in our previous submission, we recommended that the 'baseline' against which nature positive is to be measured should be defined in legislation, and there may need to be different baselines for different protected matters and ecosystems. Without established baselines, it is impossible to measure whether nature positive is being achieved.

Recommendation 11: Reinstate EIA's mandate to report on progress towards nature positive outcomes and establish clear baselines for measurement in consultation with stakeholders.

Other Critical Matters

Cultural Heritage

Cultural heritage remains the poor cousin in this reform package, as it was in the earlier nature positive reforms. EIANZ urges the Government to elevate cultural heritage protection to parity with biodiversity conservation, recognising the intrinsic value of cultural heritage and its inextricable connection to environmental management.

Recommendation 12: Strengthen cultural heritage protection provisions to achieve parity with biodiversity conservation measures.

Resourcing and Implementation

Samuel identified that underfunding was a considerable constraint on the application of the EPBC Act. During the first term of the Albanese Government, there was increased funding for the administration of the Act, but more will be needed to hasten and execute the transformation that is required.

There is a substantial amount in these reforms that will require changes to how the Act is implemented by the Department (e.g., determining what constitutes unacceptable impacts, detailing net gain requirements, establishing and implementing the restoration fund, rolling out regional planning). If these changes are going to deliver better environmental outcomes and faster approvals, then the Department **MUST** be appropriately resourced internally and supported externally to do the work required. This includes continuing to develop more efficient and mature approaches to regulation.

If adequate resourcing does not occur, we will be stuck in the same quagmire as we are now, just debating different concepts.

Recommendation 13: Commit to substantial and sustained funding increases for NEPA and supporting departments to ensure successful implementation of reforms, including capacity and capability uplift for officers.

Role of Specialist Environmental Professionals

The EIANZ can, and is keen to, play a key role both as direct support (e.g., via our regional planning roundtable proposal) and via our CEnvP scheme. For example, Department officers should be able to trust that ecology assessments undertaken by Certified Environmental Practitioner Specialists are fit for purpose and do not need to be forensically examined as often currently happens.

As noted in our previous submissions, to ensure credibility in the assessment process, we recommend that the new EPBC Act include a requirement for applications to be signed off by a suitably qualified and experienced person. Evidence of suitable qualifications and experience may include certification by EIANZ's Certified Environmental Practitioner (CEnvP) Scheme; Associate, Full, or Fellow membership of EIANZ; or recognition by another relevant industry body or certification scheme.

Recommendation 14: Include a requirement in the reformed EPBC Act for environmental assessments to be prepared and signed off by suitably qualified and experienced persons, with CEnvP certification or equivalent as evidence of competence.

Consultation with Practitioners

The Government has stated that the Department of Climate Change, Energy, Environment and Water (DCCEEW) met with key industry groups in the lead-up to the tabling of the Bills. This did not include EIANZ, although we were included in the 2024 consultation process.

Environmental practitioners and many EIANZ members have first-hand experience in working under the current EPBC Act and will be applying the ultimate legislation every day. It is essential that this type of experience is included in the design process, and that final consultation isn't reserved only for those with interests in the outcomes of the legislation, but includes those with experience in administration and application.

The EIANZ has these valuable insights and should be at the table when policies and regulations are being formulated, not limited to providing comments after the fact.

Recommendation 15: Establish ongoing consultation mechanisms with environmental practitioners, including EIANZ, during the development of National Environmental Standards and implementing regulations.

Intergovernmental Cooperation

More demonstration of effective bilateral assessment and implementation with the states and territories is needed to garner a truly effective and national approach. The success of bilateral agreements and regional planning will depend significantly on genuine cooperative federalism.

Recommendation 16: Strengthen intergovernmental cooperation mechanisms, including through COAG or ministerial forums, to ensure genuine national coordination in environmental protection.

Conclusion

This reform package represents a significant step forward that would deliver better and faster decision-making alongside improved environmental outcomes. Whilst the proposed legislation falls short of what is ultimately required to reverse biodiversity decline and meet Australia's international commitments under the UN Convention on Biodiversity and the Kunming-Montreal Framework, it represents an achievable compromise that meaningfully advances environmental protection beyond the status quo.

EIANZ's overall assessment is that this package deserves to pass. It is good, though not perfect. It moves us forward. It is impossible to score definitively due to the absence of essential detail, .

The alternative, maintaining the status quo, is unacceptable. The EPBC Act has consistently underperformed over 25 years, as documented by successive independent reviews.. Further delay risks additional extinctions, continued ecosystem degradation, and erosion of public confidence in environmental governance.

EIANZ urges the Committee to support the passage of this legislation whilst recommending the amendments and clarifications outlined in our 16 recommendations. We stand ready to contribute our expertise to the implementation of these reforms, particularly through the

development of National Environmental Standards and the operationalisation of regional planning processes.

Recognising the urgency of reversing environmental decline, we call on the Government to set a firm timeline for implementation and to commit the resources necessary to transform these legislative changes into genuine environmental improvements.

References

Maron, M., Ward, M., Simmonds, J.S., Wintle, B., Possingham, H., Venegas Li, R., Butler, D., Macintosh, A., Reside, A., Sonter, L.J., Dunn, D., Kerswell, A., Dielenberg, J., & Watson, J. (2025). Ecological Irreplaceability in the Era of Nature Positive. Available at SSRN: <https://ssrn.com/abstract=5454894>

Summary of Recommendations

1. Ensure National Environmental Standards are science-based, subject to mandatory regular review, and include mechanisms for progressive strengthening as knowledge and capacity improve.
2. Definitions of 'unacceptable impacts' for each MNES must be scientifically robust, clearly articulated in the Standards, and subject to adaptive management as ecological conditions evolve.
3. Establish rigorous gatekeeping mechanisms to ensure proponents cannot bypass avoidance and minimisation steps in the mitigation hierarchy without demonstrating genuine impracticability.
4. Clarify net gain calculation methodologies, establish transparent criteria for determining offsetability versus irreplaceability, and ensure the restoration fund operates with robust governance and ecological accountability.
5. Ensure bilateral agreements include robust accreditation criteria and regular performance reviews to maintain environmental protection standards whilst achieving efficiency gains.
6. Regional planning should be explicitly included in NEPA's regulatory functions, and plans must be developed through comprehensive stakeholder engagement including local communities, Traditional Owners, and environmental practitioners.
7. Consider embedding a Board into the NEPA structure to incorporate diverse independent perspectives into decision-making and mitigate vulnerability of sole accountability.
8. Clarify the exact functions of NEPA with respect to compliance and enforcement, and ensure the qualification requirements for the NEPA CEO refer to specialist qualifications in environmental law.
9. Codify clear criteria and limitations for the 'national interest' override provision to prevent mission creep and ensure transparency in its application.
10. Ensure the National Environmental Standard on First Nations engagement includes meaningful consultation protocols, co-design principles, and recognition of Traditional Owner rights and knowledge systems.
11. Reinstate EIA's mandate to report on progress towards nature positive outcomes and establish clear baselines for measurement in consultation with stakeholders.
12. Strengthen cultural heritage protection provisions to achieve parity with biodiversity conservation measures.



13. Commit to substantial and sustained funding increases for NEPA and supporting departments to ensure successful implementation of reforms, including capacity and capability uplift for officers.
14. Include a requirement in the reformed EPBC Act for environmental assessments to be prepared and signed off by suitably qualified and experienced persons, with CEnvP certification or equivalent as evidence of competence.
15. Establish ongoing consultation mechanisms with environmental practitioners, including EIANZ, during the development of National Environmental Standards and implementing regulations.
16. Strengthen intergovernmental cooperation mechanisms, including through COAG or ministerial forums, to ensure genuine national coordination in environmental protection.