

30 April 2026

Senator the Hon. Murray Watt
Minister for the Environment and Water
Via email to senator.watt@aph.gov.au



Environment Institute
of Australia and
New Zealand Inc.

Open letter to Federal, State and Territory Ministers with portfolio responsibility for environment and environmental regulation

Dear Minister Watt,

The Environment Institute of Australia and New Zealand (EIANZ) is the peak professional body for environmental practitioners in Australia and New Zealand. Our membership spans environmental scientists, ecologists, managers, and policy professionals working across government, industry, and private practice. Our members implement national environmental law every day, and we see firsthand where the framework is clear, where guidance is missing, and where gaps in oversight create risk for the environment, for proponents, and for public confidence.

We write in a constructive spirit to raise issues highlighted by the recent DCCEEW–Alcoa compliance actions. These matters raise legitimate questions about historic compliance oversight, the adequacy of regulatory guidance, and the current use of the national interest exemption power. Our concern is not with any single decision or party, but with the general and ongoing application of the law, and the need to address systemic issues as the National Environmental Protection Agency (NEPA) is established and its foundations are set.

A credible environmental framework must protect matters of national significance while also providing proponents, communities, and decision-makers with clarity, robustness, and confidence. These objectives are complementary, and both are weakened when the system lacks sufficient rigour in its guidance, application, and transparency in its administration.

Decisions being made now about the design, resourcing, and culture of the incoming NEPA will shape environmental governance across Australia for years to come. This is the moment to get the foundations right. EIANZ has identified six specific commitments that would materially strengthen the system, and we are prepared to assist in delivering them.

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Matters of concern

The recent DCCEEW–Alcoa compliance actions demonstrate our concerns with the interpretation and administration of the EPBC Act. Public reporting of this case and subsequent regulatory action raises questions about whether actions with potentially significant environmental consequences were subject to sufficient Commonwealth oversight, and whether applicable exemption provisions have been applied without sufficient regard to the objects and principles of the EPBC Act. Our reason for writing goes beyond the individual circumstances of this one case. EIANZ seek to ensure that insights from the DCCEEW- Alcoa compliance actions are used to improve the administration of Australian environmental law and give stakeholders confidence in the process.

The insights gained from the Alcoa event reveal that the EPBC Act's *prior authorisation and continuation of the grandfathering or exemption provisions* are not supported by adequate published guidance, and that self-assessed exemption claims of this kind are not subject to sufficient scrutiny.

Public confidence is also affected when official exemption registers and supporting records are incomplete, outdated, or difficult to access. EIANZ notes, for example, that links to documents on the 'Register of published exemption notices' for exemptions granted in or prior to 2021 all lead incorrectly to the international wildlife trade webpage.

Transparency requires that the public record be maintained so that information is available and accessible. These observations point to implementation gaps that must be addressed if the new regulatory framework is to function as intended.

The national interest exemption

In the Alcoa case study, a national interest exemption was granted to allow operations to continue while a strategic assessment is completed. EIANZ acknowledges the economic and strategic considerations that informed this decision.

With better and more timely Departmental oversight, it is unlikely that an exemption would have become necessary. The national interest exemption should be used rarely and for exceptional circumstances. EIANZ encourages the release of further information on the use of this exemption, specifically when or how the national interest test should be used.

Frequent and non-transparent use of the national interest test creates a moral dilemma for proponents and environmental professionals and risks undermining community confidence in Australia's environmental protection laws.

What EIANZ is seeking

We urge Ministers to ensure that the establishment of the National Environmental Protection Agency (NEPA) is supported by the necessary focus on, governance of and resourcing for environmental law administration to make current reforms meaningful and effective.

EIANZ has identified six specific actions in this regard

One: Publish guidance on the national interest exemption

Clear policy guidance should be developed and released this year, clarifying the intended circumstances for use of this power and reinforcing its role as an exceptional mechanism. Where broader economic, employment, supply chain, or strategic considerations may be relevant, that should be articulated more clearly so proponents, environmental practitioners, and the community can better understand how the exemption is intended to be applied.

Two: Focus and resource the NEPA to deliver

All areas of environmental law administration within its remit need to be comprehensively managed. The incoming agency must be funded at a level that enables meaningful compliance, audit, and enforcement functions. Well-designed legislation that is under-resourced in its administration will not produce the regulatory confidence that the environment, industry or community requires.

Three: Audit claimed exemptions actively

A systematic program should be established to verify that operations relying on prior authorisation or grandfathering claims continue to meet the requirements of those provisions, particularly where the nature or scale of activities has potentially changed. This should be a standing function of the NEPA.

Four: Report publicly on regulatory performance

Regular, publicly available reporting on whether DCCEE and the NEPA are meeting their statutory functions and timeframes would strengthen transparency, accountability, and confidence in regulatory administration.

Five: Issue guidance on the prior authorisation provisions

Accessible, plain-language guidance on the scope and limits of sections 43A and 43B should be developed and published as a priority, addressing clearly the circumstances in which changes to operations affect the protection those provisions afford. This guidance should be developed in consultation with practitioners who work with these provisions regularly.

Six: Run a targeted compliance awareness programme

Recent amendments to section 43B have materially changed its application for a range of industries. A targeted awareness and compliance programme is warranted to reduce the risk of further unintended non-compliance and to demonstrate that prevention is treated as seriously as enforcement.

EIANZ's offer

EIANZ members are the practitioners who implement environmental law in practice: assessing projects, advising proponents on their obligations, reviewing compliance, and working through provisions that are often complex and not always well supported by guidance. Their collective experience and perspectives are directly relevant to the implementation challenges now before

government. They have direct practical insights into current compliance uncertainty, and they understand where the framework's intent and its day-to-day operation diverge.

EIANZ welcomes the opportunity to meet with Ministers or relevant officials to contribute that experience directly to the reform work now underway. We also support the advancement of recognised practitioner certification as a mechanism for strengthening integrity across environmental assessment, approval, and compliance functions.

The credibility of environmental law rests not only in its drafting but in how it is administered. Australia has a genuine opportunity, through the reforms now underway, to establish a framework that commands lasting trust from the community, from industry, and from the practitioners who work within it every day. That outcome depends on implementation integrity from the outset.

EIANZ stands ready to contribute to that work and welcomes the opportunity to engage further.

Yours sincerely



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