



# **Senate Standing Committee on Environment and Communications**

**Inquiry into Environment Protection Reform Bill 2025  
and six related bills**

**18 November, 2025**

**CCIWA Submission**



**Chamber of Commerce  
and Industry WA**

## Introduction

The Chamber of Commerce and Industry Western Australia (CCIWA) is the peak body advancing trade and commerce in Western Australia. We represent about 7,500 businesses, of all sizes and within all sectors, including health and community services, agriculture, defence, mining, housing, energy, resources, and manufacturing.

We are committed to using our insights to develop and advocate for public policies that will help realise our vision of making WA the best place to live and do business.

Underpinning that vision, we believe Western Australia is uniquely positioned to take advantage of key economic opportunities, including the Future Made in Australia vision and net zero transition.

To that end, it is vital that the Federal Government's reforms to the EPBC Act achieve its stated aims of 'better for the environment, and better for business'.

Based on our initial examination of the EPBC reform package, adjustments would need to be made to ensure the reforms are indeed 'better for business'.

Our feedback and recommendations follow.

### 1. Unacceptable impact

The Government has signalled its intent for 'unacceptable impact' to be used in very limited circumstances. To this end, the Government has also committed to set clear, up-front and transparent criteria.

However, the complexity and ambiguity for the proposed definitions opens the risk of capturing far more developments than intended. There are 37 separate definitions of the concept, and there are some undefined terms such as 'seriously impairs'.

The simplest solution is to replace the current definitions with a single definition that avoids any undefined terms. To ensure the definition does not inadvertently capture projects outside the Government's intent, it is critical that the term be road tested with stakeholders.



#### **Recommendation 1: Unacceptable impacts**

A single, unambiguous definition which applies across legislation. The definition should be road tested with stakeholders.

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## 2. Net gain

The net gain concept is critical for the functioning of the new EPBC Act.

Despite this, there is a lack of guidance around the concept, generating considerable uncertainty for business. A key area of uncertainty relates to whether the concept applies to the residual significant impact for each protected matter, to the project as a whole, or at a landscape scale.

It is important that it be clarified that the test operates at a landscape scale. Again, it is important that there be consultation to clarify the requirements expected of industry.

Given the importance of the concept, it needs to undergo significant road testing. Shifting the concept to the Standards would enable this to occur.



### **Recommendation 2: Net gain**

The net gain test should be applied at a landscape scale. The concept should be shifted to the standards and road-tested with stakeholders.

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## 3. Nuclear trigger

While well intentioned, replacing 'nuclear actions' to 'radiological exposure actions' may lead to unintended interpretations of the legislation. Radioactive and nuclear are not interchangeable, and low nuclear materials do occur naturally. Policing the clause, as proposed, would be difficult.

Critical in this regard is clarification in the supporting regulations. Without seeing the detail on proposed changes to the regulations (if indeed, there will be any), makes it impossible to assess the practical impact of these changes. This in particular opens considerable risk for some critical minerals sectors.

To this end, we support shifting away from the 'radiological exposures' terminology, as per the Minerals Council of Australia's recommendation.



### **Recommendation 3: Nuclear trigger**

Shift away from 'radiological exposure actions' as a concept, as per the approach recommended by the Minerals Council of Australia.

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## 4. Environmental Protection Orders (EPOs)

EPOs were not recommended by the Samuel Review. There is a real risk with the lack of natural justice for proponents, and the application of EPOs. The broad scope for EPOs creates a substantial risk for investors.

It is unclear why the legislation explicitly removes the ability for natural justice, essentially preventing a right of reply from a proponent. While EPOs can only be issued if the CEO, or a delegate, reasonably believes that a contravention of the EPBC Act has, is, or will occur, this could be used vexatiously, with no clear course to resolve.



This unconstrained ability to issue EPOs without an appropriate evidentiary basis will weigh significantly on investment decisions.

There must be some guard rails put around EPOs, or they will pose a serious risk to investor certainty. They should be used only where necessary, proportionately, targeting the specific risk factor. EPOs should be based on evidence.

Ideally, if not removed from the Act, there must be a set timeframe for an EPO to expire. We support suggestions to set a 14-day deadline in legislation, and a mechanism for the EPA to apply for a court order to continue. The natural justice exemption must also be removed.



#### **Recommendation 4: Environmental Protection Orders**

EPOs should be time limited to 14-days, with clear processes for notification to proponents when an EPO begins. To extend an EPO, the National Environmental Protection Agency should seek a court order. Clauses which prevent natural justice should be omitted.

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## **5. Emissions reporting**

The Government has clarified that its intent for emissions reporting is not to influence project approval decisions.

However, the drafting of the Bill does not achieve this. In this context, it is notable that the disclosure of emissions and management measures is to occur as part of the assessment process.

There is a risk that decision-makers making assessments are influenced by receiving emissions data. It may be difficult for decision-makers to avoid being influenced, particularly where a project may impact the Department's broader outcomes relating to climate change mitigation.

The legislation should clarify that providing emissions information is not relevant to assessment decisions, and that the information be disclosed instead to Environment Information Australia.



#### **Recommendation 5: Emissions reporting**

The legislation should clarify that emissions information is not a relevant consideration in project approval decision making. The information should be provided to Environment Information Australia rather than the decision maker.

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## 6. EPA accountability

To ensure public accountability and trust, it is critical that the Bills provide the Government appropriate scope to hold the EPA accountable. Decisions made by the EPA will have significant impacts on environmental, social and economic outcomes. It is therefore appropriate and imperative that the EPA is accountable to the Australian people through the Government.

An example of where the Bills fall short, is the CEO of the EPA is not required to follow the Minister's statement of expectation. There is also no scope for the Minister to direct the EPA.

If such accountability will not be applied to the CEO, the EPA's role should be limited to compliance, enforcement and assurance, consistent with Graeme Samuel's review.



### **Recommendation 6: EPA accountability**

Government should have the ability to remove the CEO where appropriate. The CEO should be required to follow the Minister's statement of expectations, and the Minister should have scope to direct the EPA. Without these changes, the EPA should be limited to compliance, enforcement and assurance only.

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## 7. Achieving more efficient assessments

Delivery of the 'better for business' objective relies on ensuring *all* proponents can access more efficient assessment pathways. Work is required to ensure this occurs.

While the new Streamlined Assessment pathway is welcome, generally, business cannot see where there are substantive time savings, noting more detail on the 'streamlined' assessment pathway is needed. Critically as well, it is not clear what sort of projects would qualify for the new pathway.

Given this, it is premature to omit the current pathways, since the environmental impact statement level assessment approach under development appears to add more time and complexity.

We also recommend that appropriate grandfathering provisions are introduced, to protect projects granted approval prior to the EPBC Act 1999 and this suite of reforms. If these projects are subject to reassessment, this will add time and create uncertainty. While grandfathering protections have been implied, they are not explicit in the Act as currently drafted.

Ultimately, achieving meaningful improvements to assessments will require a bilateral agreement between the Commonwealth and WA. Ideally, this would be full bilateral accreditation. Discussions on full bilateral agreements and resourcing should begin as soon as practicable, after the legislation is enacted.





### **Recommendation 7: Achieving more efficient assessments**

Retain the existing assessment pathways. The legislation should also explicitly ensure existing projects can continue under existing approvals frameworks. Discussions on full bilateral agreements and resourcing should begin as soon as practicable, after the legislation is enacted.

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## **Concluding remarks**

Western Australia is uniquely positioned to take advantage of key global economic opportunities, particularly related to decarbonisation and renewable energy production, but also in advanced manufacturing, defence, agriculture and mining critical minerals.

While robust regulation is needed to future-proof our unique environment and cultural heritage, a sensible balance needs to be struck. No one wins when excessive, duplicative, lengthy, conflicting and unduly complex requirements are placed on business.

The test of success isn't making both sides of the debate equally unhappy. It's building an approvals system that protects the environment, recognises the economic and social benefits of projects, and delivers timely, predictable decisions.

The recommendations in this submission will help the Bill package to meet that standard.

