

## Article Information

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## Commonwealth Government announces stage 2 of the Nature Positive Plan - better for the environment, better for business EPBC Act reforms

**The Commonwealth Government has announced the introduction of two new bodies: Environment Protection Australia, Australia's first independent national environmental regulator, and Environment Information Australia who will maintain Australia's environmental data and prepare the State of the Environment Report.**

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### EPBC Reforms

The Albanese Government promised to fix Australia's environmental laws when elected in May 2022. As part of the reforms, the Commonwealth Government released the [Nature Positive Plan](#) in December 2022. The *Nature Positive Plan* formally responded to Professor Graeme Samuel's 2020 review of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) and set out the Government's plan to reform Australia's environmental laws.

While the major overhaul of the EPBC Act was a key promise made by the Albanese Government, continuous delays to the release of the exposure draft legislation for public consultation mean that the comprehensive reform has been delayed significantly with no date yet provided for the release of the exposure draft.

### Environment Protection Australia

Despite the delay, the Commonwealth Government has announced the introduction of Environment Protection Australia (**EPA**) as Australia's first independent national environmental regulator. A national regulator was promised under the *Nature Positive Plan*, but this was expected after the EPBC Act was overhauled.

EPA will be responsible for enforcing Commonwealth environmental laws and will also play an important role in making approval decisions. Unreasonable delays to approval decisions under the EPBC Act was a major problem identified in Professor Samuel's review of the EPBC Act. It is hoped that EPA's involvement in approval decisions will streamline the EPBC Act approval process and reduce delays.

EPA will initially sit within the Department of Climate Change, Energy, the Environment and Water until July 2025 when EPA will become fully independent. It is not yet clear how EPA will interact with state and territory environmental regulators.

EPA powers will include:

- Enforcement and compliance powers (including issuing stop-work orders known as Environment Protection Orders);
- Audit powers to audit businesses to ensure they are compliant with EPBC environment approval conditions; and
- Decision making and approval powers.

Legislation to establish EPA is expected to be put before parliament in the coming weeks. This will hopefully provide more detail on how EPA will interact with state and territory environmental regulators.

### Environment Information Australia

Environment Information Australia (**EIA**) will be established and will be responsible for maintaining and collating environmental data that will be made available to the public. In addition to environmental data, EIA will also be responsible for reporting on Australia's progress in meeting environmental targets. The aim of EIA is to assist in streamlining approvals through providing regular environmental data and identifying areas not suitable for development.

It is expected that EIA will:

- Provide governments, businesses and the public with authoritative environmental data and information;
- Report on progress towards achieving environmental outcomes;
- Publish the State of the Environment report annually; and
- Develop an online database where the public can access data more efficiently

### **Investment in faster approvals**

The Commonwealth Government has also announced a \$100 million investment in faster environmental approval decisions. The Commonwealth Minister for Environment and Water, the Hon Tanya Plibersek MP, noted that the investment will deliver more:

- support for staff to assess project proposals from business, including renewables and critical minerals;
- tailored support to help business more effectively comply with environment law;
- funding for research into threatened species so sensitive areas can be more easily avoided and suitable projects can be more quickly approved based on robust, existing publicly available data; and
- planning - working with state and territory governments - in seven priority regions so it's clearer to business where complying development can more easily occur and where the 'no go' areas are.

It is currently unclear how the above will be achieved as no detail has been provided outlining how the \$100 million will be allocated.

### **Remaining reforms**

Despite the introduction of EPA and EIA being a step in the right direction, a considerable number of environmental reforms promised under the *Nature Positive Plan* have not yet been delivered, key amongst these is the overhaul of the EPBC Act which was initially expected to be introduced by the end of 2023. These delays have created an uncertain environment for project proponents.

We will continue to monitor reforms to Australia's environmental laws and provide further updates moving forward. If you would like to know more about any of these reforms, please contact one of the Partners listed above.

### **Key Takeaways**

- EPBC Act overhaul postponed
- Environment Protection Australia will be introduced in 2024 as Australia's first national independent environmental regulator
- Environment Information Australia will be established to collect environmental data and report on environmental target progress