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CLIMATE AND
BIODIVERSITY
FOUNDATION

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Initial Submission - the Role of a National EPA in Approvals Reform:

Investing in cheaper, cleaner energy and the net zero transformation - Interim Report

Via email: 5pillars@pc.gov.au

Dear Productivity Commission,

We are writing on behalf of the Australian Climate and Biodiversity Foundation (ACBF), a not-for-profit founded in 2021 to help decision-makers find means of securing the restoration of Australia's natural environment in ways that support a thriving 21st century economy.

As an organisation dedicated to the development of economically rational policy approaches to securing Australia's net zero climate goals, and our nation's commitment to the Global Biodiversity Framework's goal to halt and reverse the loss of nature by 2030, ACBF strongly supports the work being undertaken by the Commission in relation to 'investing in cheaper, cleaner energy and the net zero transformation.' This is a critical priority for national and intergenerational prosperity, for which productivity reforms are sorely needed. We write to provide initial feedback on the Commission's *Interim Report* and look forward to providing a submission on additional matters during the submission period.

The need to accelerate the build out of renewable energy infrastructure, and the central importance of Australia's landscapes to net zero carbon abatement, also position these issues at the forefront of reconfiguring Australia's relationship with the management and protection of our natural capital and environmental assets. The Australian landscape is being asked to support the rollout of very large-scale renewables infrastructure, a rapid expansion in residential development, critical minerals projects and a significant increase in land-based carbon absorption (sequestration). These new demands on the landscape must be achieved in ways that protect and restore the quality of the natural environment. Meeting this challenge is central to establishing a sustainable economic future.



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1. Carbon Pricing

We strongly support the Commission's view that 'the Australian Government should be open to more broad-based carbon pricing arrangements in the future as Australia's decarbonisation effort moves on to the final handful of hard-to-abate activities.'

PC interim recommendations in relation to expansion of the Safeguard Mechanism, continuing the reform of Australian Carbon Credit Units (ACCUs) to ensure genuine high integrity supply, particularly in relation to the land sector, and that 'the Australian Government should seek to integrate ACCUs into every national emissions-reduction policy' are practical and essential reforms to evolve current policy architecture to tackle the 2035 and net zero challenges.

ACBF commends the Commission on their considered approach in relation to pursuing efficient economy-wide emissions reductions. We also encourage the Commission, in concert with the Climate Change Authority, to further investigate the development of measures to efficiently plan for and incentivise the large scale sequestration of carbon in Australia's landscape that is required to meet 2035 and 2050 emissions targets, as an issue that is largely unaddressed by current policy.

2. EPBC Reform

Most urgently, as highlighted in our initial submission, ACBF views reform of Australia's broken environment laws as a key and obvious lever to enhance the nation's resilience and lift moribund productivity growth. We cannot afford slow, opaque, duplicative and contested environmental planning decisions based on poor information, mired in administrative complexity. Nor can we afford the ongoing failure to halt the degradation and systemic decline of Australia's environment and natural capital.

We support the Commission's analysis that 'reforms should seek to both improve regulatory standards and speed up approvals.' We agree that 'much can be done without compromising the environment', although we qualify this by noting the well-documented negative trajectory for Australia's biodiversityⁱⁱⁱ and that more rapid approvals can and should be achieved while ensuring measurable environmental improvements through protection, improved management and ecosystem restoration.

We strongly support the Commission's analysis on the priority of reforming national environment laws, including to 'introduce national environmental standards, facilitate regional planning, make offsetting more efficient and clarify engagement requirements.' As recommended by the Samuel Review,ⁱⁱⁱ committed to in the Australian Government's *Nature Positive Plan*,^{iv} and widely endorsed by stakeholders, the performance outcomes and clear benchmarks that will be delivered through Standards are central to delivering consistent, efficient and timely project assessment and approval processes, while meeting Commonwealth responsibilities to protect, manage and restore Matters of National Environmental Significance (MNES).

As noted by the Commission, Standards are critical in enabling accreditation of State and Territory approvals to reduce overlap, on the condition that Commonwealth legislative and environmental benchmarks are met. Standards also provide the framework for regional planning that the Commission identifies as facilitating faster approvals in less environmentally sensitive landscapes.

The Commission's recommendations in relation to providing accessible, high quality approvals information, and reforming offsetting arrangements to improve environmental outcomes and efficiency for proponents are also key planks of federal reforms. We support these recommendations and note they are consistent with Government policy.

3. Efficient Approvals Require Institutional Reform through a National EPA

We note that the Commission provides analysis on the challenges for the Department of Climate Change, Energy, Environment and Water (DCCEEW) in delivering efficient assessments and approvals, including under-resourcing and skills and expertise gaps in relation to renewable energy. The Commission's recommendation to address these issues is to establish a 'strike team' for priority renewables projects, and to establish a 'Clean Energy Coordinator-General' to monitor, advise and 'investigate and help resolve delays' for priority renewable energy projects.

ACBF acknowledges the analysis that there are persistent challenges for DCCEEW in facilitating efficient assessments. However, we believe the prescriptions provided by the Commission will not address the fundamental problems of slow, opaque, and inconsistent approvals processes administered under the existing departmental model. Moreover, while we acknowledge the value of similar roles in the appropriate context, we hold concerns that a 'Clean Energy Coordinator-General' based on a model of normative influence, with no powers to implement or enforce

improvements, and a narrow remit of a specified list of priority projects, will have a very limited ability to achieve improvements.

The reason that minor administrative reforms will be ineffective in speeding up approvals is that there are inherent structural constraints in the prevailing departmental model of approvals. There have been repeated similar, failed attempts to speed up approvals through investment, internal process changes, priority lists, and so on over the 25-year history of the EPBC Act. The Commission's reflection on recent prioritisation processes and investments 'that PC has heard that proponents welcome the additional support but have not yet seen a material impact to the speed of the process' likely reflects these challenges.

Moreover, the approvals delays afflicting the renewables transition are also shared across other critical sectors of the economy that rely on major project approvals, including housing and critical minerals. Given that, structural and institutional reform to ensure the Commission's recommendations for ensuring the assessment of renewables projects are 'issued with clear expectations, tools and escalation procedures' are applied universally and permanently across project assessments for all sectors would deliver broader economy wide productivity benefits.

While we acknowledge the significance of the energy transition to the economy, taking a sector-by-sector approach with proposals such as a Clean Energy Coordinator General would suggest the need for other bespoke solutions for key sectors interacting with the EPBC Act. Such an approach would perpetuate the historical failure of the EPBC in ensuring consistent rules and processes.

The imperatives of delivering the energy transition clearly extend many decades into the future, well beyond 2030. Attempting short term fixes to address genuine long-term problems associated with an economy in transition is not a prudent pathway. A better approach is to build strength, transparency and resilience in project assessment and approval processes that can stand the test of time and garner genuine community support and trust.

In line with Australian Government policy, an effective and enduring approach to speed up assessment and approvals and improve the environmental outcomes that provide industry social licence is to implement legislative and structural reform to create an independent, fit-for-purpose and properly resourced expert regulator to administer regulatory compliance and approvals processes.



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Reflecting this specific rationale, the establishment of an independent national regulator, in the form of Environment Protection Australia (EPA), is Australian Government policy that is in the process of being implemented.^{vi} This policy recognises that an independent regulator is fundamental to addressing the persistent processes failures that have beset the EPBC, including in the pace of approvals. It is a key part of effective environmental reform, and provides a singular, structural solution that avoids the need for additional bodies and mechanisms that are likely to add further costs and bureaucratic processes.

As recommended in our recent submission to the Economic Reform Roundtable,^{vii} Standards that provide clear rules for environmental protection, that provide a possible pathway for accreditation of state and territory regimes that meet those benchmarks, and a fit for purpose regulator in the form of an independent EPA are the three interdependent legislative reforms that will accelerate approvals while improving environmental outcomes.

ACBF's roundtable submission made the following recommendation on the importance of an EPA to the productivity improvements to major project approvals:

Rebuild trust and accountability into decision making through the establishment of an Independent National Environment Protection Agency. Presently, 99% of development approvals are made by DCCEEW which lacks independence, transparency, efficiency and expertise in effective regulation. An independent, expert regulator in the form of a national environment protection agency (EPA) would administer the Standards through making assessment and approval decisions, taking responsibility for compliance and enforcement, and providing assurance for any accredited arrangements including by exercising step in powers if accredited standards are not being met. An accountable EPA with consistent processes, predictable timeframes, clear environmental outcomes and efficient project management will speed up approvals for key 21st century economic drivers such as renewable energy, housing and critical minerals, facilitate allocation of capital through providing a 'fast yes' or a 'fast no', and efficiently protect nationally significant environment assets and natural capital.

4. An Efficient and Effective Independent Regulator

While we note there may be reluctance from some quarters to view the creation of the new EPA as a productivity improvement, this is a surface level objection that ignores the prevailing regulatory

environment and history of repeated failures to address chronically slow approvals through administrative adjustments to the departmental model.

Increasing the pace of approvals requires actions at multiple levels, ranging from the legislative prescription of approvals processes, down to establishing a service-driven regulatory culture that is reflected in day-to-day interactions with proponents. Attempting to graft these changes onto an established set of processes and a culture that is conditioned to viewing the current system as suitably efficient and effective is highly unlikely to succeed.

For example, while we note the proposal for a 'strike team' approach where specialist assessment officials and resources are dedicated to specific sectors with a high volume of assessments, in this case renewables, could provide benefits, in the absence of the reformed regulatory approach, rules, processes and agency culture that will be delivered through a national EPA, any 'strike teams' will face ongoing structural barriers to efficient assessments.

The opportunity for institutional reform of approvals processes consistent with Australian Government commitments is consequently too good an opportunity to pass up to deliver productivity improvements for key sectors of the economy, and tangible benefits for Australia's environment.

Providing confidence that the structure and implementation of an EPA will actually achieve the sought productivity gains requires an explicit identification of industry pain points, and ensuring EPA design, and resourcing, directly responds to these. We note there is a high degree of consistency across key sectors on the key issues, beyond the clean energy sector.

Namely, that current federal assessment, approvals, conditioning and monitoring requirements lack consistency, predictability and practical workability. This unpredictability in processes, outcomes and timeframes is a critical source of major project delay, cost, and risk that has widespread impacts on business operations, investment, and productivity.

From both environmental and productivity perspectives, the prospect of an independent regulator, operating under clear rules and accountability, and with a mandate to prioritise consistent and efficient process and effective environmental outcomes, provides a fundamental benefit in avoiding the inconsistencies that are invited by a current system that can be perceived as susceptible to political pressure.

These pressures, an absence of clear rules, and the lack of a dedicated agency with a mandate and accountability to prioritise efficiency and tangible environmental outcomes result in a range of specific problems in regulatory administration. Issues regularly identified by industry and environment stakeholders, include:

- highly variable decision making (often to the detriment of the environment).
- a lack of social licence that should be provided through a robust and trustworthy environmental assessment and protection regime.
- a lack of clear environmental benchmarks and priorities for proponents to meet in developing project proposals, including at regional level, resulting in wasted time and assessment costs, poor environmental outcomes and ineffective environmental conditions and investments.
- regular delays and a lack of clear approval timelines.
- a culture of departmental risk aversion that results in continued requests for information, surveys, research, and documentation that delay approvals.
- the layering of administrative documentation and burdensome and ineffective approval conditions that results from an absence of clear rules.
- a lack of specific regulatory and sector expertise.
- poor and inconsistent case and project management.
- legal challenge risks due to inconsistent processes.

In response, we recommend an EPA model is implemented that is consistent with Australian Government commitments and policy and directly responds to identified industry and environmental concerns. Such a model would include the following:

Responsibilities. The EPA's responsibilities would cover assessments, approvals, compliance, enforcement and assurance. An independent, well-resourced national EPA should be legislated to ensure that assessments and approvals are undertaken independently and free from political interference. Responsibilities would include ensuring strong compliance and enforcement, and oversight of National Environmental Standard implementation. In relation to accreditation of State and Territory assessment and approvals processes, the EPA would assess whether state legislation and process meet National Environmental Standards and requirements of the EPBC Act, advise on decisions to accredit state-based processes, and provide assurance that accredited state-based

processes continue to meet the required obligation, including mechanisms to amend, suspend or cancel accreditation.

Objectives and duties. An EPA would be guided by clear objectives and duties. These would include explicit objectives of protection and restoring matters of national environmental significance, delivering efficient and transparent decision-making, ensuring substantive public participation in decision making, and duties for the EPA CEO to act according to the objects of the *EPBC Act*.

Structure: The EPA would be structured as a professional independent regulator implementing clear outcomes based standards. This should include skilled leadership and staff, transparent accountability for performance, adequate resources, consistent timeframes and processes, clear upfront advice for proponents on environmental requirements and conditions, active project/case management, effective integration with Environmental Information Australia on data needs and use, and reducing duplication. The EPA's governance should include clear accountability for performance, and require efficient timelines and processes for assessments and decisions.

6. Conclusion

ACBF commends the Commission on their analysis of measures to improve productivity in meeting key national challenges delivering the renewable energy transition and delivering net zero.

In particular, ensuring EPBC reforms deliver improved environmental outcomes at the same time as speeding assessment processes, including through the implementation of national environmental standards, is a critical priority.

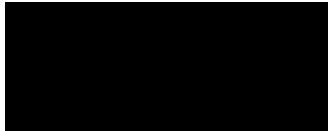
In addition, we recommend the Commission further considers the critical role of an independent national environmental regulator, in the form of an EPA, to ensure productivity and environmental benefits can be practically delivered through assessment, approval, and accreditation processes.

We thank you for your work and look forward to continuing to engage with the Commission on these important issues, including providing a further submission to this important inquiry.

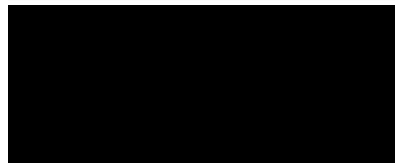


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Yours Sincerely



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ⁱⁱⁱ Samuel (2021) *Second Independent Review of the EPBC Act*, <https://www.dcceew.gov.au/environment/epbc/our-role/reviews/epbc-review-2020>

^{iv} Australian government (2022) *Nature Positive Plan*, <https://www.dcceew.gov.au/sites/default/files/documents/nature-positive-plan.pdf>

^v Ibid.

^{vi} Minister for the Environment (2025) <https://minister.dcceew.gov.au/watt/transcripts/doorstop-canberra>

^{vii} ACBF (2025) Submission, Economic Reform Roundtable.