



Update on EPBC Act reforms: Changes to the application of the EPBC Act to forestry operations

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This document was last updated on 17 December 2025

Summary

For 25 years, forestry operations undertaken in accordance with a Regional Forestry Agreement (**RFA**) or in an 'RFA Region' have been exempted from needing approval under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**).

However, an end date for this exemption has now been set. Following significant concerns that RFAs were not achieving required environmental outcomes, including findings by the 2020 Samuel Review, reforms to the EPBC Act passed at the end of 2025 included changes that mean RFA operations will be subject to EPBC Act approval processes from **1 July 2027**.

The reforms also include changes to various pathways through which RFA operations could be regulated after the exemption discontinues. This includes individual project approval, bilateral agreements, strategic assessments and bioregional planning, and new environmental safeguards that apply to these pathways. These safeguards include the power to create new National Environmental Standards which may apply to these new pathways.

The Federal Government is **currently** seeking feedback on proposed National Environmental Standards for matters of national environmental significance (**MNES**) and environmental offsets **until 30 January 2026**. This is a critical opportunity to have your say on key new environmental protections to make sure these protections are as robust and evidence-based as possible. The proposed Standards and information about how to have your say can be found [here](#).¹

¹ <https://www.dcceew.gov.au/about/news/hys-draft-national-environmental-standards>

Background

Regional Forest Agreements (**RFAs**) are long-term agreements between the Australian federal government and state governments intended to guide the management and sustainability of forestry activities in a specific region. They cover native forests, including old growth forest, plantations and other types of forests on both public and private land.

The *Regional Forest Agreements Act 2002* (Cth) (**RFA Act**) also applies to forestry activities. It gives effect to certain Commonwealth obligations under RFAs and certain aspects of the National Forest Policy Statement.

There are RFAs in place in New South Wales, Tasmania and Western Australia.

‘RFA Regions’ are listed areas under the EPBC Act which are regions that have been subject to a process of negotiating a regional forest agreement but an RFA does not apply.²

Since its commencement in 1999 the EPBC Act has contained provisions that exempted forestry operations under RFAs or in RFA Regions from EPBC Act assessment or approval (see EPBC Act, Chapter 2, Part 4, Division 4). This is known as the ‘RFA exemption’.

There are significant concerns that RFAs are not fit for purpose, particularly in the absence of evidence that they are achieving the required environmental outcomes.

The 2020 independent [review](#) of the EPBC Act undertaken by Professor Samuel (**Samuel Review**) found that “*the environmental considerations under the RFA Act are weaker than those imposed elsewhere for MNES and do not align with the assessment of significant impacts on MNES required by the EPBC Act*”. The Samuel Review also acknowledged that there is “*great concern that the controls on logging within forests have not adequately adapted to pressures on the ecosystem such as climate change or bushfire impact*”.

Recommendation 15 of the Samuel Review aimed to increase the level of environmental protection afforded in RFAs by recommending:

- a) The Commonwealth should immediately require, as a condition of any accredited arrangement, States to ensure that RFAs are consistent with the National Environmental Standards.
- b) In the second tranche of reform, the EPBC Act should be amended to replace the RFA ‘exemption’ with a requirement for accreditation against the National Environmental Standards, with the mandatory oversight of the Environment Assurance Commissioner.

Amendments were recently passed to the EPBC Act on 28 November 2025, principally through the *Environment Protection Reform Act 2025* (Cth) (**EPR Act**). These amendments included changes to the regulation of forestry activities under RFAs. Most amendments referred to in this document have not yet commenced, and will commence on proclamation within twelve months of the Act passing in December.

² EPBC Act, Chapter 2, Part 4, Division 4, Subdivision B; RFA Regions are listed in s41.

Changes to regulation of forestry activities under the 2025 EPBC reforms

RFA exemption will expire

Under the reforms, the existing RFA exemption will sunset after 18 months, on **1 July 2027** (see amendments to s 38(1) of the EPBC Act in the EPR Act).

After 1 July 2027, RFA forestry operations will be subject to the EPBC Act. There are multiple pathways available under the EPBC Act which may apply to forestry operations going forward (e.g. individual project approval, bilateral agreements, strategic assessments and bioregional planning). There is nothing in the legislation directing that forestry operations be subject to any particular pathway.

‘RFA regions’ exemption will also expire

Since its commencement in 1999 the EPBC Act contained provisions also exempting ‘RFA regions’ from EPBC Act approval processes (Subdivision B, Division 4, Part 4 of the EPBC Act). An ‘RFA region’ is a region outside of an RFA that is subject to a process of developing and negotiating an RFA.

The recent EPBC reforms repeal the provisions exempting activities in RFA regions from the need for EPBC Act assessment and approval.

These provisions commence from proclamation, they are not connected to the sunset period for RFA forestry operations. This means that once the recent EPBC amendments are proclaimed, activities in RFA regions will be subject to the EPBC Act. Proclamation will occur within 12 months of the Bill passing.

How might RFA forestry operations be regulated from here?

There are multiple regulatory pathways available under the EPBC Act (e.g. individual project approval, bilateral agreements, strategic assessments and bioregional planning), and nothing in the legislation directing that forestry operations be subject to any particular pathway. New safeguards introduced through the reforms will apply to each of these pathways, discussed below.

The federal government has stated an intention for RFA forestry operations to be accredited under bilateral agreements.³ There are also other regulatory pathways available for forestry operations once the RFA exemption ends.

Bilateral agreements (accreditation): The 2025 reforms have updated existing provisions relating to bilateral assessment agreements and bilateral approval agreements. These will be a key mechanism for ‘accrediting’ state and territory frameworks to facilitate the devolution of assessment and approval powers under the EPBC Act.

³ Commonwealth, *Parliamentary Debates*, Senate, Thursday 27 November 2025, 44 and 46 (Senator Murray Watt, [Senate 2025_11_27.pdf;fileType=application/pdf](#)).

One new safeguard introduced requires accreditation of an assessment process before accreditation for an approval process can be granted, **however** this does not apply in the case of RFA forestry operations. For RFA forestry operations there is no requirement for accreditation of an assessment process under a bilateral agreement to be in place before the accreditation of approval powers (see new ss 45(3)(c)); approval powers can be immediately devolved. All other pathways must have an assessment bilateral approval in place prior to devolution of approval powers. This means, for example, that the NSW state legislative framework around forestry could be accredited under a bilateral approval agreement so that there is no requirement for approval under the EPBC Act, without needing to have the NSW assessment process accredited first.

Strategic assessment: Under the EPBC Act, strategic assessments are landscape-scale assessments and approvals for an action or class of actions (Part 10 of the EPBC Act). They may be used in forestry operations to assess and approve multiple actions under one process, rather than individual project assessment, largely in the name of efficiency and certainty.

Bioregional planning: Bioregional planning is another landscape scale approach to environmental planning under the EPBC Act. The EPR Act creates new bioregional planning provisions in the EPBC Act which have a regulatory function through the establishment of development zones (or ‘go zones’ to ‘fast track’ development), conservation zones (where specified actions are generally prohibited) and bioregional restoration measures (new Part 12A). A bioregional plan may declare ‘priority actions’ in development zones and set conditions for those actions. Priority actions are not subject to individual assessment and approval requirements, but will need to be registered with the Minister

New environmental safeguards will apply to regulation pathways

Whatever pathway is used, new safeguards introduced into the EPBC Act by the EPR Act will apply. This means that forestry activities previously regulated under RFAs will be subject to any prescribed new National Environmental Standards (**Standards**), net gain criteria, and must not have unacceptable impacts.

- **Application of National Environmental Standards to RFA forestry operations**

The EPR Act has introduced into the EPBC Act a power for the Minister to make Standards, and for the regulations to prescribe how Standards apply to certain decisions (see new Part 19B of the EPBC Act). Other specific provisions in the Act may also require a person to apply a Standard in a specified way (see, for example, new s 177AQ(2) regarding the Minister’s decision to make a bioregional plan).

There is no requirement for the Minister to make any particular Standards or to apply any Standards to particular decisions (new s 514YD(1)), so at this stage there is no certainty as to how Standards will specifically apply to forestry operations.

Each proposed Standard will be open for public consultation of at least 20 business days and must be tabled in federal parliament.

18 months after commencement of the new Part 19B (which occurred on **2 December 2025**), the new ‘no regression’ principle will apply to Standards (new s514YG). This principle requires that when Standards are varied or revoked, they cannot lower the level of environmental protection and community consultation provided by previous Standards.

- **Application of unacceptable impacts criteria to RFA forestry operations**

The EPR Act introduces a new requirement that the Minister can only approve actions relating to a matter of national environmental significance (**MNES**) if satisfied the action will not have an ‘unacceptable impact’. The Act lists a number of definitions of unacceptable impact for different categories of MNES (new s 527F). For example, for a listed threatened species in the critically endangered category (new s 18(2)), an ‘unacceptable impact’ is ‘a significant impact that (a) seriously impairs the viability of the listed threatened species; or (b) causes serious damage to critical habitat of the listed threatened species where the habitat is irreplaceable and necessary for the listed threatened species to remain viable in the wild’.

This requirement applies to all regulatory pathways, including individual project applications, bilateral agreements, strategic assessments, and bioregional plans etc. After 1 July 2027, this new ‘unacceptable impacts’ test will apply to approvals for RFA forestry operations. That is, the Minister must not approve an RFA forestry operation unless they are satisfied that it will not have an unacceptable impact on a protected matter.

In the specific case of bilateral agreements, the Minister must not accredit the states’ processes for RFA forestry operations under bilateral agreements unless they are satisfied that approved actions will not have unacceptable impacts on a declared protected matter (new ss 46(3)(h)). Further, a bilateral agreement between the Commonwealth and a state must include an undertaking from the state that an action will only be approved if the decision-maker is satisfied that it will not have an unacceptable impact (new ss 48A(4)).

- **Application of the net gain test to RFA forestry operations**

The EPR Act amends the EPBC Act to introduce a new ‘net gain’ test. This means that actions that have residual significant impacts on an MNES can only be approved if the Minister is satisfied the approval will pass the ‘net gain’ test (new s 527K). This net gain test applies to the various approval pathways under the Act. After 1 July 2027, this new ‘net gain’ test will apply to RFA forestry operations. That is, to approve an RFA forestry operation, the Minister must be satisfied that it will pass the ‘net gain’ test.

‘Residual significant impact’ on a MNES is defined as where the impact is significant, it will not be avoided, mitigated or repaired in the course of taking the action or complying with conditions attached to the approval for the action (new s 527J). An approval of an action passes the net gain test where the approval includes a condition requiring the proponent to compensate for damage caused (e.g. by delivering their own environmental offset) and/or a condition requiring the proponent to pay a restoration contribution charge to the Commonwealth (new s 527K).

The EPR Act amends the EPBC Act to provide that a regulation can establish how ‘net gain’ should be interpreted and applied for the purposes of passing the net gain test, including the quantum of net gain that is required for particular protected matters (new s 527K(1)(b)). These regulations are yet to be determined, and will require careful examination to ensure absolute net gain is achieved.

In the specific case of bilateral agreements, the Minister must not provide accreditation unless the Minister is satisfied that the action would only be approved if it would pass the net gain test (new s 46(3)(i)). Further, the amendments also provide for a mandatory undertaking in the bilateral agreement by the state that the action will only be approved if it passes the net gain test (new ss 48A(5)).

Opportunities to ensure strong regulation of forestry activities

National Environmental Standards

The new Standards – which RFA forestry operations will likely be subject to from 1 July 2027 – have not been finalised.

Consultation is currently opening on two Standards until **5pm, Friday 30 January 2026:**

- **Draft Matters of National Environment Significance (MNES) Standard** – to provide more guidance on the assessment of impacts to matters of national environmental significance; and
- **Draft Offsets Standard** – focused on providing improved criteria for offsets, to ensure they are effective at achieving their aims. This draft also introduces criteria around the new restorations contribution fund.

Have your say now

The Department of Climate Change, Energy, the Environment and Water’s [website](#) to provide feedback on the draft Standards by 5pm, **Friday 30 January 2026**.

Watch out for changes to regulation of RFA forestry operations and get involved

It isn’t clear yet how RFA forestry operations will be regulated under the new EPBC Act – whether under individual project assessment, bilateral agreements, strategic assessments or bioregional planning. Whatever the case, the EPBC Act requires some form of public consultation or comment period, providing an opportunity for the community to have a say. For example:

- **Bilateral agreements** – in accordance with regulations the Minister must publish the draft agreement and receive comments within at least a 28 day period (s 49A).
- **Strategic assessments** - public consultation is required on the proponent’s draft report of the impacts if the Minister were to agree to a strategic assessment. Public comment must be open for at least 28 days (s 146(2)(b)).

- **Bioregional planning** – the Minister must publish a draft bioregional plan on the Department’s website, and invite comment for a period of at least 30 days (new s 177AL).

Conclusion

All up, these reforms are a step forward for better regulating forestry operations in Australia, but more work is needed to make sure that the reforms lead to real protection of unsustainable impacts to Australia’s matters of national environmental significance through forestry activities.

See [EDO’s brief here](#) on other actions that can be taken to ensure the reforms to the EPBC Act lead to the strongest possible laws for the environment going forward.