



Environmental
Defenders Office

**Submission to the Queensland Productivity Commission
inquiry into the impact of the Australian Government's
2025 environment protection reforms on Queensland**

31 July 2026

About EDO

EDO is a community legal centre specialising in public interest environmental law. We help people who want to protect the environment through law. Our reputation is built on:

Successful environmental outcomes using the law. With over 40 years' experience in environmental law, EDO has a proven track record in achieving positive environmental outcomes for the community.

Broad environmental expertise. EDO is the acknowledged expert when it comes to the law and how it applies to the environment. We help the community to solve environmental issues by providing legal and scientific advice, community legal education and proposals for better laws.

Independent and accessible services. As a non-government and not-for-profit legal centre, our services are provided without fear or favour. Anyone can contact us to get free initial legal advice about an environmental problem, with many of our services targeted at rural and regional communities.

www.edo.org.au

Submitted to:

Queensland Productivity Commission
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Acknowledgement of Country

The EDO recognises and pays respect to the First Nations peoples of the lands, seas and rivers of Australia. We pay our respects to the First Nations Elders past and present and aspire to learn from traditional knowledges and customs that exist from and within First Laws so that together, we can protect our environment and First Nations Cultural Heritage through both First and Western laws. We recognise that First Nations Countries were never ceded and express our remorse for the injustices and inequities that have been and continue to be endured by the First Nations of Australia and the Torres Strait Islands since the beginning of colonisation.

EDO recognises the right to self-determination of First Nations peoples, including their right to freely determine their own political status and freely pursue their economic, social and cultural development. This extends to recognising the many different First Nations within Australia and the Torres Strait Islands, as well as the multitude of languages, cultures, protocols and First Laws.

First Laws are the laws that existed prior to colonisation and continue to exist today within all First Nations. It refers to the learning and transmission of customs, traditions, kinship and heritage. First Laws are a way of living and interacting with Country that balances human needs and environmental needs to ensure the environment and ecosystems that nurture, support, and sustain human life are also nurtured, supported, and sustained. Country is sacred and spiritual, with culture, First Laws, spirituality, social obligations and kinship all stemming from relationships to and with the land.

A note on language

We acknowledge there is a legacy of writing about First Nations peoples without seeking guidance about terminology. We also acknowledge that where possible, specificity is more respectful. For the purpose of this submission, we have chosen to use the term First Nations. We acknowledge that not all First Nations will identify with that term and that they may instead identify using other terms or with their immediate community or language group.

First Laws is a term used to describe the laws that exist within First Nations. It is not intended to diminish the importance or status of the customs, traditions, kinship and heritage of First Nations in Australia. EDO respects all First Laws and values their inherit and immeasurable worth. EDO recognises there are many different terms used throughout First Nations for what is understood in the Western world as First Laws.

The role of EDO & First Nations Peoples

EDO is a non-Indigenous community legal centre that works on behalf of First Nations peoples around Australia in their efforts to protect their Countries and Cultural Heritage from damage and destruction. EDO has and continues to work with First Nations clients who have interacted with Western laws, including litigation and engaging in Western law reform processes.

Out of respect for First Nations self-determination, EDO's recommendations for Western law reform in relation to First Nations matters are high-level, to support First Nations to protect their Countries and Cultural Heritage as they see fit. In making this submission, EDO cannot and does not speak on behalf of First Nations peoples or groups. The submission is based on our expertise in human rights, planning and environmental Western law and experience in seeking to protect First Nations Cultural Heritage through Western law.

Executive Summary

Environmental Defenders Office (EDO) welcomes the opportunity to comment on the Queensland Productivity Commission (**Commission**)’s inquiry into the impact of the Australian Government’s 2025 environment protection reforms on Queensland.

EDO has been closely involved in the reforms to the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) and has advised and represented community members on its operation since the Act commenced. We continue to engage on the implementation of the subordinate legislation to support the reforms which were passed in November 2025. Our lawyers have also worked on Queensland’s environment and development laws for forty years, advising, representing and educating community members seeking to understand and engage with these laws, as well as closely engaging in reform processes.

In summary, the EPBC reforms passed in 2025 are heavily focused on streamlining and extending exemptions to federal environmental laws. There were important steps forward in clarifying the application of federal environmental laws, such as with respect to the removal of exemptions for ‘continuous use’ for clearing of vegetation in the Great Barrier Reef catchments and valuable regrowth vegetation, and the sunseting of the Regional Forest Agreements which allowed extensive forestry operations to be exempt from the EPBC Act since commencement. There are also more appropriate penalties for breaches introduced and new concepts with respect to unacceptable impact criteria, the power to create National Environmental Standards and the net gain test. However, much of the framework is untested or still in creation, and there are questions as to how significant the changes will be in creating the step change needed to address Australia’s declining environmental health.

The Terms of Reference to this inquiry states: “It is critical that regulation across all levels of government serves its intended purpose and not act as a handbrake on vital projects that support growth and economic security.” EDO agrees that the EPBC Act should indeed operate to serve its intended purpose and further, that ensuring the EPBC Act operates to meet its purpose of environmental protection serves sustainable growth and economic security for all Queenslanders. In order to meet the purpose of Australia’s environmental laws, it must be recognised that this can mean that some proposed projects cannot go ahead.

In response to some of the questions posed by the Commission, this submission focuses on:

1. How the EPBC Act reforms threaten to weaken environmental outcomes for Queensland;
2. The important role of functioning, enforceable environmental laws to the economy, community wellbeing and to the environments we depend on and are proud to be custodians of in Queensland;
3. The need for robust regulation of fossil fuel projects for Queensland’s strong and prosperous future;
4. Opportunities for improving outcomes in Queensland; and
5. The facilitation of First Nations engagement and ensuring First Nations rights and interests reflected in any recommendations.

Summary of Recommendations:

1. The Inquiry should consider whether and how the reforms to the EPBC Act may in fact weaken protection of Queensland's matters of national environmental significance and the impact this may have on Queensland.
2. The Inquiry should be delayed until the full framework operationalising the EPBC Act reforms commenced in 2025 is finalised and in effect, and ideally until 2-3 years after this point, so that meaningful evaluation can occur of the changes the reforms have made to environmental regulation and outcomes for the environment and all stakeholders.
3. The Inquiry should highlight the evidence of the value to the Queensland economy of strong and effective environmental laws that protect our natural assets and the significant income and jobs benefits enjoyed across the State generated from our tourism sector, outdoor activity sector and national parks. Noting that value, it should highlight the benefits to productivity and investment in Queensland of the EPBC reforms, where they improve environmental protection.
4. The Inquiry should consider the benefits of robust regulation of fossil fuels, including the risky proposed expansion of oil exploration in the Taroom Trough, to the Queensland economy.
5. The Inquiry should welcome the exclusion of coal, gas and petroleum extraction and production activities from the streamlined assessment, national interest approval exemptions and bioregional planning pathways in the EPBC 2025 reforms as appropriate in ensuring fossil fuel activities are assessed robustly for the benefit of all Queenslanders.
6. The Inquiry should consider the efficiencies that can be recognised through entering revised bilateral assessment agreements under the EPBC Act reforms.
7. The Inquiry should consider and warn against the entering of bilateral approval agreements, given the risk posed to Queensland, including its nationally and internationally recognised environmental values, in removing federal oversight via the decision-making process on referrals, where this has limited benefit in improvements to speed of approvals.
8. The Committee should ensure and facilitate effective First Nations engagement in the Inquiry, based on principles of self-determination and Free, Prior and Informed Consent.
9. The Inquiry should make recommendations that strengthen:
 - a) the role of First Nations in decision-making that affects their Country and Cultural Heritage in accordance with the principle of Free, Prior and Informed Consent, and
 - b) protections of First Nations interests including in relation to Cultural Heritage, in Queensland.

1. The EPBC Act reforms threaten to weaken outcomes for Queensland

The Australian Government's 2025 reforms to the EPBC Act were presented as implementing the recommendations of the Independent Review of the EPBC Act led by Professor Graeme Samuel AC. While they are framed by the Australian Government as delivering "faster, more predictable approvals" alongside "stronger environmental safeguards," the substance and emphasis of the package is heavily weighted towards streamlining development approval processes and expanding exemptions from environmental scrutiny.

The EPBC Act reforms in 2025 have led to:

- increased exemptions, particularly by continuing and extending the existing broad 'National Interest' exemption;
- shortened and less robust assessment options, particularly through the new streamlined assessment pathway with no limits yet placed on the scale of the projects that can access this highly curtailed pathway;
- a weaker environmental offsets framework than previously existed, introducing the ability to pay money into a 'restoration contribution' fund that does not need to meet principles of 'like for like' or timeliness, rather than real offsets being established as possible prior to impacts being allowed; and
- decreased oversight of impacts posed to matters of national environmental significance, facilitating greater uptake of the bilateral approval assessment pathway.

The cumulative effect of a number of the reforms raises concern as to whether the balance has shifted too far towards facilitating development at the expense of achieving the Act's fundamental objective of protecting Australia's most precious or at threat environmental values. This is of particular importance in Queensland, which contains nationally significant biodiversity, including the Great Barrier Reef, extensive World Heritage Areas, nationally threatened species and ecological communities, internationally significant wetlands and large areas of intact habitat.

Queensland's productivity, economic growth, living standards and quality of life rely on a healthy environment and the ecosystem services and economic benefits provided by our world leading environment. New elements of the EPBC Act reforms could be helpful, such as the removal of the 'continuous use' exemptions for certain clearing and the exemption for Regional Forestry Agreement operations, National Environmental Standards (**NES**), unacceptable impact criteria, net gain requirements and the National Environmental Protection Agency (**NEPA**) with its stronger enforcement powers. However, their overall effectiveness in improving environmental decision-making in the face of the significant availability of exemptions and short cut environmental assessment cannot yet be determined.

We are still awaiting the finalisation of key elements of the newly reformed EPBC Act framework to be able to understand exactly how the framework will be operationalised. The National Environmental Standards, Regulations and Rules under the reforms are yet to be finalised and will play a central role in clarifying how the EPBC Act should be applied. Without these parts it is difficult to provide meaningful comment on how the EPBC Act reforms will operate, let alone how they may impact Queensland to meet the inquiry terms set by the Queensland Government.

For more detail on our concerns with respect to the EPBC Act reforms, **linked below** are each of EDO's submissions to the EPBC Act legislative reforms and the proposed draft Standards and subordinate instrument policy papers released to date:

- [Submission to the Environment Protection Reform Bill 2025 and other legislation amendment Bills;](#)
- Submission to the latest versions of the draft National Environmental Standards for:
 - [Matters of National Environmental Significance;](#)
 - [Offsets](#)
 - [Community Engagement](#)
 - [Data and Information](#)
- [Submission to the Exposure Regulations and Consultation Papers](#)

Recommendation:

1. The Inquiry should consider whether and how the reforms to the EPBC Act may in fact weaken protection of Queensland's matters of national environmental significance and the impact this may have on Queensland.
2. The Inquiry should be delayed until the full framework operationalising the EPBC Act reforms commenced in 2025 is finalised and in effect, and ideally until 2-3 years after this point, so that meaningful evaluation can occur of the changes the reforms have made to environmental regulation and outcomes for the environment and all stakeholders.

2. Strong environmental laws, strong economy

Evidence shows that strong environmental laws underpin a strong economy by ensuring the environmental costs of potential developments are appropriately assessed then prevented, mitigated or managed.

Australia and Queensland's prosperity depends on nature, making strong and effective environmental laws central to the state's economic security.¹

Queensland's economy is particularly dependent on a healthy environment through tourism, the outdoor activity sector and national parks. Numerous studies have found billions of dollars of benefit to the economy from showcasing our natural assets. For example:

- **Great Barrier Reef:** The most striking example of this is the value to the Queensland and Australian economy of the World Heritage listed Great Barrier Reef. In 2025 an analysis by Deloitte found that:

"The Great Barrier Reef contributed \$9 billion in value added to the Australian economy in 2023–24 and supported around 77,000 full-time equivalent jobs. If the

¹ Australian Conservation Foundation, The Nature-based Economy: How Australia's Prosperity Depends on Nature. Available online at [2208_Nature_NatureDependencyReport_FINAL-2.pdf](#)

Reef was a business, the scale of direct annual employment it supports would make it the 5th largest employer in the country”.²

This value extends to the broader suite of activities in Queensland’s nature-based economy.

- **National parks:** A 2018 study by the University of Queensland found that the opportunity to visit Queensland’s world class national parks generated at least \$297 million to the Gross State Product, which supported at least 2, 725 jobs, as a lower bound measure. Those figures increase for visitors who stated that national parks were very important to their travel and spending, with a \$1.98 billion benefit to Gross State Product and 17,241 total jobs.³
- **Outdoor activity sector:** A 2016 study found that Queensland’s nature-based outdoor activity sector brings in around \$3.62 billion in spending each year, making a \$1.94 contribution to the state’s economy and supporting approximately 33,500 direct and indirect full-time equivalent jobs.⁴

The importance of strong environmental laws to support the kind of productivity evidenced in the studies mentioned was set out in a December 2025 Australian Productivity Commission report.⁵ It stated that:

- Clear, enforceable standards improve certainty, efficiency and investment outcomes;
- Strong environmental planning avoids wasted investment and speeds approvals;
- High-quality environmental information reduces costs and delays;
- High-integrity environmental protections support project delivery at scale; and
- Strong engagement standards reduce conflict and approval delays.

Recommendation:

3. The Inquiry should highlight the evidence of the value to the Queensland economy of strong and effective environmental laws that protect our natural assets and the significant income and jobs benefits enjoyed across the State generated from our tourism sector, outdoor activity sector and national parks. Noting that value, it should highlight the benefits to productivity and investment in Queensland of the EPBC reforms, where they improve environmental protection.

² Deloitte Access Economics, “At What Cost – Safeguarding the Great Barrier Reef’s role in Australia’s economy. October 2025. Available online at [GBRValue-FullReport-Oct25.pdf](#)

³ University of Queensland, 2018, “Queensland’s National Parks. An economically important tourism resource.” Available online at [Queensland’s national parks an economically important tourism resource.](#)

⁴ Marsden Jacob and Associates. September 2018. “Queensland’s Nature-based Outdoor Economy,” Available online at [18412 SkillsIQ Outdoor Rec Reports QLD](#)

⁵ Productivity Commission 2025, Investing in cheaper, cleaner energy and the net zero transformation, Inquiry report no. 113, Canberra. Available online at [Inquiry report - Investing in cheaper, cleaner energy and the net zero transformation](#)

3. Robust regulation of fossil fuels in Queensland supports a strong and prosperous future

EDO strongly supports the exclusion of coal, gas and petroleum extraction and production activities from the streamlined assessment, national interest approval exemptions and bioregional planning pathways in the EPBC 2025 reforms.

Leading expert evidence shows that Queensland urgently needs to diversify its domestic and exports economy to plan for the significant fall off in demand for coal and gas exports, in a warming world and as trading partners move to net zero.⁶

Environmental laws should regulate fossil fuels according to their harms and prioritise enabling the industries of the future to protect Queensland's economy. This will lead to considerable economic and productivity benefits for the State. For example, modelling from Deloitte in 2024 found that Queensland has a \$430 billion economic opportunity from an orderly transition to meet the 2035 climate target of 75% below 2005 levels that remains legislated under the *Clean Economy Jobs Act 2024* (Qld).⁷ That pathway regulates the use of coal fired power to remove regular reliance on coal by 2035 and provides a pathway for clean export industries to replace fossil fuel exports.

Queensland's economy is harmed by the climate damage caused by the emissions from every new fossil fuel approval.⁸ As global average temperatures start to overshoot safer thresholds, any new fossil fuel extraction from Queensland will cause measurable and foreseeable harm to our priceless natural wonders, including the Great Barrier Reef, along with the communities of Queensland facing increased extreme weather.

The fast-tracking of coal and gas activities without adequate assessment, public consultation or approval scrutiny would put Queensland's precious and unique environment at significant risk and lead to Queensland and Australia causing emissions that would breach the Paris Agreement 1.5°C temperature limit.⁹ This is because the best available science suggests that the global carbon

⁶ Climate Resource, December 2025, "Australia's coal outlook in a warming world". Available online at [Australia's coal outlook in a warming world.](#), Climate Resource, April 2026, "The last LNG train home. Australia's LNG Outlook in a demand constrained world." Available online at [The last LNG train home long final](#)

⁷ Deloitte Access Economics, April 2024. "Toward a Net Zero Queensland". Available online at [Toward a Net Zero Queensland](#)

⁸ See for example, Abram, N.J., Maher, N., Perkins-Kirkpatrick, S. *et al.* Quantifying the regional to global climate impacts of individual fossil fuel projects to inform decision-making. *npj Clim. Action* **4**, 92 (2025). <https://doi.org/10.1038/s44168-025-00296-5>

⁹ IPCC, 2023: Summary for Policymakers. In: Climate Change 2023: Synthesis Report. Contribution of Working Groups I, II and III to the Sixth Assessment Report of the Intergovernmental Panel on Climate Change [Core Writing Team, H. Lee and J. Romero (eds.)]. IPCC, Geneva, Switzerland, pp. 1-34, [doi: 10.59327/IPCC/AR6-9789291691647.00](https://doi.org/10.59327/IPCC/AR6-9789291691647.00) Paragraph B.5, Page 19: "*Limiting human-caused global warming requires net zero CO₂ emissions. Cumulative carbon emissions until the time of reaching net zero CO₂ emissions and the level of greenhouse gas emission reductions this decade largely determine whether warming can be limited to 1.5°C or 2°C (high confidence). Projected CO₂ emissions from existing fossil fuel infrastructure without additional abatement would exceed the remaining carbon budget for 1.5°C (50%) (high confidence).*" (our emphases)

budget for a 50% chance of staying on a 1.5 degree warming pathway is already exceeded by existing and under-construction fossil fuel projects.¹⁰

Australia and Queensland's duties under international law with respect to fossil fuel approvals have recently been clarified by the International Court of Justice. On 23 July 2025, the International Court of Justice (ICJ) issued an Advisory Opinion outlining the obligations of United Nations member States to address climate change and confirming that 1.5°C is the scientifically based consensus target under the Paris Agreement.¹¹

The ICJ concluded that all states, including Australia, are subject to the obligation in international law to prevent significant harm to the climate,¹² and must "ensure the protection of the climate system and other parts of the environment from anthropogenic greenhouse gas emissions".¹³

The Court noted that "Failure of a State to take appropriate action to protect the climate system from GHG emissions — including through fossil fuel production, fossil fuel consumption, the granting of fossil fuel exploration licences or the provision of fossil fuel subsidies — may constitute an internationally wrongful act which is attributable to that State."¹⁴

The Court made it clear that this duty extends to sub-national governments. The Court clarified that member States have a customary duty under international law to ensure activities within their jurisdiction do not cause significant harm to the climate system.¹⁵ The Advisory Opinion explicitly confirms that the international law rules as to the attribution of State responsibility apply in the context of climate change, and as such "the conduct of any organ of a State must be regarded as an act of that State".¹⁶ Conduct (or lack thereof) by a subnational government is therefore capable of being considered an internationally wrongful act.

Recommendation:

4. The Inquiry should consider the benefits of robust regulation of fossil fuels, including the proposed expansion of oil exploration in the Taroom Trough, to the Queensland economy.
5. The Inquiry should welcome the exclusion of coal, gas and petroleum extraction and production activities from the streamlined assessment, national interest approval

¹⁰ Trout, Kelly, et al. "Existing fossil fuel extraction would warm the world beyond 1.5 C." *Environmental Research Letters* 17.6 (2022): 064010. Existing fossil fuel extraction would warm the world beyond 1.5 °C – IOPscience.

¹¹ International Court of Justice, *Obligations of States in respect of Climate Change*, 23 July 2025, Advisory Opinion. Available online here: <https://www.icj-cij.org/sites/default/files/case-related/187/187-20250723-adv-01-00-en.pdf> (ICJ Advisory Opinion).

¹² ICJ Advisory Opinion, [409].

¹³ ICJ Advisory Opinion, [457].

¹⁴ ICJ Advisory Opinion, [427].

¹⁵ ICJ Advisory Opinion, [457] finding B(a).

¹⁶ ICJ Advisory Opinion, [427], citing *Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda)*, Judgment, I.C.J. Reports 2005, p. 242, para. 213, citing *Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights*, Advisory Opinion, I.C.J. Reports 1999 (I), p. 87, para. 62.

exemptions and bioregional planning pathways in the EPBC 2025 reforms as appropriate in ensuring fossil fuel activities are assessed robustly for the benefit of all Queenslanders.

4. Opportunities for improving outcomes in Queensland

There are myriad opportunities to improve the efficiency and effectiveness of environmental regulations at a state and federal level, including as introduced by the recent EPBC Act reforms, that do not involve simply reducing or removing regulation of environmental impacts. Of particular note, the new EPBC Act bilateral assessment agreement framework is a good opportunity to improve the existing bilateral assessment agreement. This could provide a big win for efficiency and streamlining processes by removing duplication of environmental assessment at a federal and state level.

Queensland has already had the benefit of a bilateral assessment agreement being in place for the environmental impact assessment processes under the *State Development and Public Works Organisation Act 1971* (Qld) (**SDPWO Act**) and the *Environmental Protection Act 1994* (Qld).¹⁷ The first iteration of this agreement was entered in August 2009. Under this agreement, only one environmental assessment document is needed which meets the requirements of the EPBC Act and the Queensland environmental assessment processes encompassed by the agreement.

The environmental impact assessment process is easily the most time-consuming part of any environmental assessment pathway, given the length of time for each stage, such as:

- applications to be developed, with EPBC Act consultation on the application at referral;
- terms of reference to be developed and sometimes consulted on;
- impact assessment to be undertaken;
- information requests to be generated and responded to;
- public consultation to be undertaken;
- responses to consultation to be provided and review of project proposals in response to responses and feedback; and
- final environmental impact assessment documentation to be lodged.

Each of these are important stages that must be done with care and attention. By combining the criteria of the federal and state legislation to only require a proponent to go through this pathway once, and the community and levels of government to respond to one environmental assessment process, there are significant gains in time and resource expenditure for all stakeholders, but particularly for proponents.

¹⁷ Amending agreement no. 5, A bilateral agreement between the Commonwealth and the State of Queensland, under section 45 of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), last updated at the end of 2025; <https://www.dcceew.gov.au/sites/default/files/documents/qld-bilateral-amendment-agreement-5.pdf>. Also an assessment pathway under the previous *Sustainable Planning Act 2009* (Qld) is incorporated but this Act has been superseded by the *Planning Act 2016* (Qld).

The EPBC Act reforms introduce a more robust framework to ensure that these agreements reflect and implement the full legislative suite, such as:

- ensuring the framework and approvals of actions or classes of action under the framework are consistent with any prescribed NES,¹⁸
- ensuring approvals under the framework do not have unacceptable impacts on declared protected matter,¹⁹ and
- ensuring actions or classes of actions under the framework would pass the net gain test for residual significant impacts to declared protected matter.²⁰

These elements have been introduced to the EPBC Act in an attempt to curb the continually declining environmental health of protected matters, as documented in the federal and Queensland State of Environment Reports²¹ and through submissions to inquiries such as that on the Faunal Extinction Crisis.²² As noted above, ensuring regulations lead to positive environmental outcomes is beneficial to Queensland's economy, community wellbeing and the short and long term health and wellbeing of all species and ecosystems. Therefore, the continuation of the bilateral assessment agreements with updating to ensure they lead to improved environmental outcomes can lead to benefits across Queensland for efficiencies and outcomes if successfully undertaken.

Contrastingly, the new bilateral *approval* agreement framework should be avoided to ensure the adequate regulation of impacts to nationally protected matters. The removal of federal approval powers will not create a substantial win in terms of time and will threaten to severely degrade environmental outcomes if the check and balance of both levels of government on decisions around matters of national environmental significance is removed. It is the appropriate role of the Commonwealth Government departments to ensure we are meeting our international commitments to protect the places and species of most importance to us as a nation, which have often also been granted international recognition. Maintaining federal oversight also removes the risks posed by state and territory governments having the sole power to allow development, where state and territory governments are more likely to have political benefit from allowing certain development to go ahead, regardless of the environmental ramifications.

The very reason the EPBC Act was created was to ensure appropriate oversight of the protection of matters of national environmental significance across Australia, where subnational governments had been proposing and supporting impacts considered to be unacceptable to these areas. There are sobering examples demonstrating irresponsible decision-making by state level governments that had to be stopped by the federal government, including the Tasmanian Government's intention

¹⁸ *Environment Protection Reform Act 2025* (Cth), clause 117 new s46(3)(e) and (f).

¹⁹ *Ibid*, new ss 46(3)(h).

²⁰ *Ibid*, new ss 46(3)(i).

²¹ Commonwealth Government, *State of the Environment Report 2021*, <https://soe.dcceew.gov.au/>; Queensland Government, *State of the Environment Report 2024*, https://www.stateoftheenvironment.detsi.qld.gov.au/_data/assets/pdf_file/0003/2038503/SoE-2024_1012.pdf?v=0.1.1.

²² Submissions to the Senate Inquiry into the Faunal Extinction Crisis are available online, noting the inquiry lapsed prior to reporting: https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Environment_and_Communications/Faunalextinction/Submissions.

to dam the World Heritage listed Franklin River and the Bjelke-Peterson Government approving petroleum exploration leases over much of the Great Barrier Reef. This federal oversight must continue under the EPBC Act to ensure the many benefits to all Queenslanders of appropriate environmental decision-making is continued and improved upon.

There are otherwise plenty of opportunities under the new framework for developers in Queensland to enjoy faster and more streamlined assessment processes when they are posing threats to matters of national environmental significance. For example, via the new streamlined assessment pathway where applications are ready for assessment and decision, the national interest exemption pathways, and via bioregional planning and strategic assessments allowing for pre-assessment of classes of activities to allow their smooth passage through the EPBC Act requirements.

Overall, however, we invite the Committee to consider the benefits of effective and robust environmental laws to Queensland, particularly in not externalising the costs of environmental and climate impacts for all Queenslanders to face the burden both now and in the future.

Recommendation:

6. The Inquiry should consider the efficiencies that can be recognised through entering revised bilateral assessment agreements under the EPBC Act reforms.
7. The Inquiry should consider and warn against the entering of bilateral approval agreements, given the risk posed to Queensland in removing federal oversight via the decision-making process on referrals, where this has limited benefit in improvements to speed of approvals.

5. First Nations engagement should be facilitated and First Nations rights and interests reflected in any recommendations

The rights of First Nations people are reflected in the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*, that has been endorsed by Australia.²³ UNDRIP outlines fundamental legal rights of First Nations, including that of Free, Prior and Informed Consent (**FPIC**). FPIC reflects the inherent collective right of First Nations peoples to participate in decision-making processes on issues and laws that affect their lives, lands, waters, skies and resources, and to grant or withhold consent where decisions affect them.

Accordingly, First Nations involvement in environmental decision making is essential, as both stakeholders and rights holders. First Nations' rights, knowledge and culture must be made central

²³ *United Nations Declaration on the Rights of Indigenous Peoples*, GA Res 61/295, UN GAOR, 61st sess, 107th plen mtg, Agenda Item 68, Supp No 49 (2 October 2007, adopted 13 September 2007) (UNDRIP). Regarding the importance of this endorsement for Australia's domestic jurisdiction, see *Sampi v State of Western Australia (No 5)* [2026] FCA 517, [45]-[48].

to environmental planning and decisions, with self-determination and Free, Prior and Informed Consent entrenched in legislation. Upholding First Nations right to self-determination, as well as the effectiveness of legislative frameworks regulating Country, depends on early and meaningful engagement with First Nations across Queensland who continue to maintain deep connection to, and are custodians of, their Countries.

The Committee should ensure and facilitate effective engagement of First Nations people in this Inquiry

The Terms of Reference focus on reducing ‘regulatory burden’ associated with environmental protection laws and increasing ‘productivity’. However, pushes to streamline regulatory processes focused on efficiency and economic productivity may come at the cost of the effective engagement with First Nations people and their right to self-determination and Free, Prior and Informed Consent. To reduce this risk through the Inquiry itself, the Committee should effectively ensure and facilitate First Nations engagement in the Inquiry. This may require pausing the Inquiry until processes to facilitate this are established, noting the time required to guarantee involvement and decision-making in accordance with First Nations governance structures. The views of relevant First Nations representative organisations should be sought as to how the Inquiry should proceed.

First Nations’ role in environmental decision making should be strengthened, at state and federal level

To date, First Nations interests have been regularly ignored or undermined by environmental regulation in Queensland. In particular, laws designed to protect First Nations cultural heritage and Country in Queensland have been found to be significantly failing. We highlight the findings of the Joint Standing Committee on Northern Australia into the destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia, which outlined criticisms made of the Queensland laws with respect to failures to protect cultural heritage of First Nations.²⁴ The limited protections of First Nations cultural heritage in Queensland is under further threat of erosion if the *State Development and Public Works Organisation (Critical Minerals) and Other Legislation Amendment Bill 2026*, in its current form, is passed by Parliament.

The independent review of the EPBC Act by Professor Graeme Samuel AC in 2020 outlined various recommendations for strengthening the protection of the rights, knowledge and interests of First Nations under the EPBC Act.²⁵ Broadly, the Samuel Review recommended the co-design of policy and implementation to improve outcomes for Indigenous Australians, and we understand the federal government is currently working on a specific First Nations Engagement Standard which proponents will be required to follow.

²⁴ Joint Standing Committee on Northern Australia Inquiry, The destruction of 46,000 year old caves at the Juukan Gorge in the Pilbara region of Western Australia, *Final report: A way forward*, (2021), paragraphs 5.53-5.80,

https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/Former_Committees/Northern_Australia_46P/CavesatJuukanGorge/Report/section?id=committees%2freportjnt%2f024757%2f77841.

²⁵ Professor Graeme Samuel, Independent Review of the EPCB Act – Final Report, 2020, p.ii, <https://www.dccew.gov.au/sites/default/files/documents/epbc-act-review-final-report-october-2020.pdf>

However, in our view there is little in the EPBC Act reforms that have meaningfully strengthened the role of First Nations in environmental decision making under the EPBC Act, let alone embed the principles of UNDRIP. Nor have the reforms included appropriate safeguards of Indigenous Cultural and Intellectual Property. It appears to have been a missed opportunity to strengthen participation of First Nations in decisions that impact their Country and Cultural Heritage, and the extent to which a First Nations Engagement Standard will address some of these issues is currently unknown. As with various parts of the EPBC Act reforms that are yet to be implemented or operationalised, it is simply too early to assess their effectiveness or limitations.

In this context, we strongly discourage any recommendations which may further water down First Nations right to Free, Prior and Informed Consent in decision-making that affects their Country and Cultural Heritage. Subject to effective engagement with First Nations people, the Inquiry should make recommendations that *strengthen* the recognition and protection of First Nations rights, interests and cultural heritage in Queensland, ensure First Nations peoples are able to participate meaningfully in decisions affecting Country and reflect the enduring knowledge, cultures and custodianship of First Nations peoples.

Recommendation:

8. The Committee should ensure and facilitate effective First Nations engagement in the Inquiry, based on principles of self-determination and Free, Prior and Informed Consent.
9. The Inquiry should make recommendations that strengthen:
 - a) the role of First Nations in decision-making that affects their Country and Cultural Heritage in accordance with the principle of Free, Prior and Informed Consent, and
 - b) protections of First Nations interests including in relation to Cultural Heritage, in Queensland.

*Thank you for the opportunity to make this submission.
Please do not hesitate to contact our office should you have further enquiries.*