



Monday, 12 October 2026

Mr Greg Manning
Head of Division
Environment Policy, Legislation and Forests
Department of Climate Change, Energy, the Environment and Water
Ngunnawal Country, John Gorton Building, King Edward Terrace
Parkes ACT 2600

Dear Mr Manning

Re: CEC submission regarding Tranche 3 EPBC reform consultation papers and Exposure Draft regulations

The Clean Energy Council (**CEC**) welcomes the opportunity to provide a submission to the Department of Climate Change, Energy, the Environment and Water (**DCCEEW**) in response to the following:

- four consultation papers, which outline proposed regulatory settings to support the Tranche 3 reforms to the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)*:
 - Consultation Paper 1 – Streamlining Single Project Approvals (**Paper 1**);
 - Consultation Paper 2 – Enabling landscape scale pathways (**Paper 2**);
 - Consultation Paper 3 – Delivering new compensation options (**Paper 3**); and
 - Consultation Paper 4 – Other consequential changes (**Paper 4**); and
- an Exposure Draft of the Environment Protection and Biodiversity Conservation Amendment (2026 Measures No. 2) Regulations 2026 (**EPBC Regulations**), (the **Exposure Draft**).

The CEC is the peak body for the clean energy industry in Australia, representing nearly 1,000 businesses operating across renewable energy generation, energy storage and the broader clean energy supply chain. Our members include developers, owners and operators of, and investors in, wind energy facilities, solar energy facilities, battery energy storage systems, and associated infrastructure.

The CEC supports the policy intent outlined in the consultation papers, including stronger environmental protection and restoration, greater accountability and transparency in decision-making, and more efficient and robust project assessments under the EPBC Act.

While supportive of the intent of the Tranche 3 EPBC reforms, this submission raises a number of recommendations regarding matters that would benefit from greater clarity and guidance. We set out below the CEC's comments on each of the policy papers. We have also provided recommended mark up to parts of the Exposure Draft as follows:

- Annexure A contains our recommended mark up regarding single project approvals;

- Annexure B contains our recommended mark up regarding advanced restoration actions; and
- Annexure C contains our recommended mark up regarding information included in referrals.

Summary of Recommendations

Recommendation 1: Reinstate the existing reasonableness exemption in subregulation 4.03(2) or, at a minimum, expressly provide that a referral need not include information that could only reasonably be obtained by preparing an EIS.

Recommendation 2: Provide guidance to proponents regarding the 'checklist' of information required to be included in referral documentation for a streamlined assessment (Schedule 2, Part 2). This guidance should clearly explain what constitutes 'minor information gaps' and how these can be avoided or addressed.

Recommendation 3: Remove mandatory referral-stage requirements to consider consistency with the NES (even though it is not mandatory to demonstrate alignment) except where a proponent elects to pursue the streamlined assessment pathway. Instead, include a purely optional ability to provide this information at the referral stage.

Recommendation 4: Clarify in guidance, timing for demonstrating compliance with the NES after a controlled action decision is made. Also clarify how this applies in the context of the Preliminary Documentation pathway and where a proponent changes pathways.

Recommendation 5: Amend item 13.01, or include supporting notes, to clarify that: (a) the potential economic and social benefits of an action include its contribution to relevant government policy, including renewable energy targets, and any consequential reduction or avoidance of greenhouse gas emissions; and (b) the potential consequences of not proceeding include any adverse effect on achieving those policy objectives and any consequential increase in, or foregone reduction of, greenhouse gas emissions.

Recommendation 6: Extend the consideration of social and economic factors to all referrals (not only those accessing the streamlined assessment pathway). We recommend including similar wording to that in item 13.01 in item 4.01 (see our mark up to the Exposure Draft at Annexure C).

Recommendation 7: Include express limits or safeguards in the EPBC Regulations to ensure that requests for information are confined to information that is material to the decision.

Recommendation 8: Clarify in supporting guidance how the updated post approval processes and new approval tests (compliance with NES, unacceptable impact test and net gain test) apply to requests and decisions to extend an approval or vary an approved action. In particular, expressly confirm that these new tests do not apply to decisions to extend, or vary the conditions of, an approval issued under the current EPBC Act framework.

Recommendation 9: Consider introducing a dedicated minor-amendment pathway for existing approvals (this could be modelled on the section 45C process in Western Australia). In the absence of

undertaking the necessary legislative amendment, publish guidance clarifying the types of variations that must be addressed under section 143 of the EPBC Act.

Recommendation 10: Update the policy statement *Consideration of a Person's Environmental History when making Decisions under the EPBC Act* to clarify how proponents are expected to comply with requirements to provide information in relation to a person's history in relation to environmental matters. This should also explain how the requirements apply to parent bodies, joint ventures and other complex corporate structures.

Recommendation 11: Release the Exposure Draft of the amendments relating to bioregional plans for public consultation. While we recommend that all the Exposure Draft be released we consider it particularly important for the bioregional planning sections.

Recommendation 12: Include additional requirements for bioregional plans, including a defined assessment methodology and decision rules, the supporting evidence base, a cumulative impact assessment, and sufficiently detailed and accessible spatial data.

Recommendation 13: Ensure that bioregional plans, associated guidance and mapping do not operate as de facto exclusion zones, and preserve a pathway for proponents to use robust project-level evidence to demonstrate that development can proceed while achieving the relevant environmental outcomes.

Recommendation 14: Clearly prescribe the methodology, assumptions and data used to establish an assumed development level (for the purpose of bioregional plans), including how existing and pipeline development will be treated and how the level will be periodically reviewed and adjusted to reflect actual development and environmental impacts.

Recommendation 15: Establish transparent allocation and 're-allocation' mechanisms in relation to the 'assumed development level', supported by appropriate project milestones, so that unused capacity is returned where a registered action is withdrawn, materially delayed or does not proceed. Further consideration and consultation on this recommendation would be required to ensure that appropriate safeguards are in place to protect proponents from any unreasonable application of such a mechanism.

Recommendation 16: Clarify in the regulations that a bioregional plan may be reviewed before the five-year deadline where material changes in data, evidence or other relevant information fundamentally affect an aspect of the plan, and allow any such review to be confined to the matters affected by that change.

Recommendation 17: Require reviews of bioregional plans to consider both whether the plan reflects current environmental information and whether it is operating effectively in practice, including in supporting priority actions to progress through approval and reach financial close.

Recommendation 18: Develop regulations and supporting guidance under Part 10 of the EPBC Act (in particular under section 146(2)(g)) to facilitate their use for coordinated renewable energy development, including within Renewable Energy Zones and for offshore wind.

Recommendation 19: Amend regulation 6C.06, or publish supporting guidance, to prescribe how the relevant baseline for an advanced restoration action must be established and applied, including

whether expected improvement is measured against a fixed baseline or a declining counterfactual baseline, consistently with the Offset Standard.

Recommendation 20: Amend regulation 6C.10 to require notice and a reasonable opportunity to rectify remediable non-compliance before suspension or revocation of an advanced restoration action, and delete paragraph 6C.10(1)(d) so that uncertainty about achieving the expected improvement is addressed through adaptive management rather than suspension or revocation.

Recommendation 21: Publish guidance explaining when and how an advanced restoration action may be recognised under another Commonwealth, State or Territory law, fund or scheme, and how additionality and consistency with Principle 5 of the National Environmental Standard for Environmental Offsets is dealt with.

Recommendation 22: Introduce a simplified process for registered persons to seek minor variations to an advanced restoration action or management plan, with clear criteria, proportionate information requirements and shorter decision timeframes.

Recommendation 23: Allow a registered person to apply to voluntarily revoke or surrender a registration where the advanced restoration action has not been, and will not be, used to satisfy an approval condition, subject to appropriate safeguards.

Recommendation 24: Amend regulation 6C.04 to prescribe the minimum content of an advanced restoration action management plan, including intended outcomes, delivery activities and timeframes, governance and responsibilities, monitoring and reporting, risk management, adaptive management and funding or resourcing arrangements.

Recommendation 25: Clarify in the EPBC Regulations or supporting guidance the standard for determining whether a management plan contains sufficient detail, whether it must be independently reviewed, endorsed or approved, who is responsible for that process, and whether it must occur before an application for registration is submitted.

Recommendation 26: Limit the proposed requirement to prepare summaries of consultation feedback to identifying the key issues raised and explain how they were considered and addressed, rather than requiring an individual response to every submission. The regulations should also include clear protections for confidential, commercially sensitive and personal information.

Consultation Paper 1 – Streamlining Single Project Approvals

Changes to referral information requirements

The Exposure Draft proposes amendments to Part 4 and Schedule 2 of the EPBC Regulations to refine the information that must accompany a referral. The stated purpose in Paper 1 is to ensure that

referral documentation contains the information needed for the Minister to decide whether an action is a controlled action.

The amendments would remove existing subregulation 4.03(2), which provides that information need not be included where, in all the circumstances, it would be unreasonable to expect its inclusion. The current provision gives, as an example, information that could only reasonably be obtained by preparing an environmental impact statement (**EIS**).

The CEC supports expanding the existing exclusions for confidential information and information that, if disclosed, may endanger a species or site of environmental significance, to also cover culturally sensitive information, personal information and intellectual property.

However, removing the broader 'unreasonable to expect' exemption may require proponents to provide information that is disproportionate to the referral-stage decision or that cannot reasonably be obtained at that stage in the process. This would impose unnecessary cost and delay and blur the distinction between referral and assessment requirements.

Recommendation 1: Reinstate the existing reasonableness exemption in subregulation 4.03(2) or, at a minimum, expressly provide that a referral need not include information that could only reasonably be obtained by preparing an EIS.

Streamlined assessments

To access the streamlined assessment pathway (which is replacing the former 'assessment on referral information' pathway), a proponent would need to provide the information required to make an approval decision at the same time as the standard referral information is submitted. Paper 1 states that amendments to the EPBC Regulations will clarify the information that must be provided to enable the proponent to qualify for a streamlined assessment. Paper 1 also provides that '[u]pdates to the schedules will set out the information requirements for a streamlined assessment, providing a clear checklist for proponents and decision-makers'. However, where 'minor' information is required to enable an approval decision to be made, the preliminary documentation assessment pathway will be selected instead.

We note that the Exposure Draft does not clarify what is meant by 'minor' information gaps. We recommend that guidance is prepared to accompany the 'checklist' of information requirements for the streamlined assessment pathway, to enable proponents to better understand how the list of requirements can be satisfied in practice. In particular, clear guidance should be provided on what constitutes 'minor information gaps' (as distinct from 'no' gaps), and how these can be avoided or addressed, in order to qualify for the streamlined assessment pathway.

Recommendation 2: Provide guidance to proponents regarding the 'checklist' of information required to be included in referral documentation for a streamlined assessment. This guidance should clearly explain what constitutes 'minor information gaps' and how these can be avoided or addressed.

Consideration of National Environmental Standards at referral stage

Paper 1 provides that under proposed new regulations, proponents will have a non-mandatory opportunity to demonstrate alignment with relevant National Environmental Standards (NES) within referral documentation. The reason for this optionality is to enable proponents to either: qualify for the streamlined assessment pathway (where alignment with NES is demonstrated, and other necessary referral information is provided); or demonstrate alignment with the NES at a later stage, through an alternative assessment process (e.g. through an EIS assessment).

The way this is set out in the Exposure Draft is that at the referral stage a proponent must give information as to whether the person proposing to take the action thinks that the engagement was undertaken, referral information has been provided, and avoid, mitigate or repair measures proposed, are in accordance / consistent with the relevant NES.¹ Requiring this information to be provided in all referrals (even if the proponent does not need to demonstrate alignment with the NES) could, in practice, require an unnecessary assessment, time and costs for a proponent who does not wish to access the streamlined pathway and will therefore not need to demonstrate alignment with the NES at the referral stage.

The CEC recommends deleting the current proposed regulations and instead including an optional mechanism to provide information regarding alignment with the NES at the referral stage.

In addition, the CEC recommends clarifying in guidance timing for demonstrating compliance with the NES after a controlled action decision is made, and how this applies in the context of the Preliminary Documentation pathway and where a proponent changes pathways.

Recommendation 3: Remove mandatory referral-stage requirements to consider consistency with the NES (even though it is not mandatory to demonstrate alignment) except where a proponent elects to pursue the streamlined assessment pathway. Instead, include a purely optional ability to provide this information at the referral stage.

Recommendation 4: Clarify in guidance timing for demonstrating compliance with the NES after a controlled action decision is made. Also clarify how this applies in the context of the Preliminary Documentation pathway and where a proponent changes pathways.

Social and economic factors

The CEC welcomes the inclusion of referral information requirements concerning the economic and social matters relevant to an action, including its potential benefits and the consequences of the action not proceeding. These considerations are particularly important for renewable energy projects, which

¹ See for example, Item 4 of Schedule 2, 4.01(i)(ii) which requires that the description of the project includes 'whether the person proposing to take the action thinks that the engagement was undertaken in accordance with the National Environmental Standard (Community Engagement) 2026'. Similarly, 6.02(d) requires proponents to provide the following regarding mitigation hierarchy measures: 'whether the person proposing to take the action thinks that the measure is consistent with the National Environmental Standard (Matters of National Environmental Significance) 2026'.

can contribute directly to achieving government renewable energy targets and reducing or avoiding greenhouse gas emissions.

However, we consider that the social and economic factors should more expressly recognise contributions to relevant government policy (including renewable energy targets) and the greenhouse gas emissions benefits of an action or class of actions as potential economic and social benefits. They should also recognise the corresponding implications for government policy objectives and greenhouse gas emissions where an action does not proceed. This clarification would ensure that decision-makers can consider the broader public benefits and opportunity costs of renewable energy projects in a consistent and transparent manner.

In addition, the provision of social and economic impacts is currently confined to the streamlined pathway. We recommend that provision of materials relating to social and economic factors should be extended to all referrals (not only those accessing the streamlined assessment pathway). We recommend including similar wording to that in item 13.01 in item 4.01 (see our mark up to the Exposure Draft at Annexure C).

Recommendation 5: Amend item 13.01, or include supporting notes, to clarify that: (a) the potential economic and social benefits of an action include its contribution to relevant government policy, including renewable energy targets, and any consequential reduction or avoidance of greenhouse gas emissions; and (b) the potential consequences of not proceeding include any adverse effect on achieving those policy objectives and any consequential increase in, or foregone reduction of, greenhouse gas emissions.

Recommendation 6: Extend the consideration of social and economic factors to all referrals (not only those accessing the streamlined assessment pathway). We recommend including similar wording to that in item 13.01 in item 4.01 (see our mark up to the Exposure Draft at Annexure C).

Requests for Information

Paper 1 states that other changes that do not require regulations include a 'reduction in stop clocks, noting that the Minister will now have to publish reasons for when further information is required to inform decisions'.²

Information requests should be specific, relevant and proportionate, identify the information deficiency, and explain why the information is required. Accordingly, the CEC welcomes this change. However, Paper 1 does not set out the limits or safeguards that would apply to information requests. We recommend clarifying these limits and safeguards to ensure that requests do not result in open-ended stop clocks or repeated requests for information that is not material to the decision.

Recommendation 7: Include express limits or safeguards in the EPBC Regulations to ensure that requests for information are confined to information that is material to the decision.

² Paper 1, page 9.

Variations

Paper 1 states that the EPBC Regulations will include updated post approval processes to address requests to extend an approval or vary an approved action. Paper 1 clarifies that proponents will need to demonstrate that the proposed changes to the approval remain consistent with the NES, will not result in unacceptable impacts and will satisfy the net gain test. This is consistent with new subsections 143(2A) and 145D(3A) of the EPBC Act, which state that in deciding whether or not to (a) revoke, vary or add to any conditions attached to an approval, or (b) extend an approval, the Minister must be satisfied that the decision: will be consistent with prescribed NES; will not result in unacceptable impacts; and will continue to ensure that the approval passes the net gain test in relation to any residual significant impact.

The CEC understands that pursuant to application provisions in the Environment Protection Reform Act 2025 (Cth) (which introduced the new approval tests), new subsections 143(2A) and 145D(3A) only apply to a decision, if the referral to which the decision relates was made on or after the commencement day (i.e. 1 December 2026, unless proclaimed earlier).³ We recommend that supporting guidance clearly explains how the new approval tests are intended to apply to decisions to extend an approval or vary an approved action. This should include express confirmation that these tests do not apply to decisions to extend, or vary the conditions of, an existing approval issued under the current legislation.

The CEC also recommends establishing an explicit process for making minor amendments to existing EPBC approvals. This is particularly important for renewable energy projects, where turbine layouts, access tracks, connection infrastructure and equipment selection often change during detailed design and procurement. Where the approved development envelope or disturbance area is maintained and environmental impacts are unchanged or reduced, a clear and proportionate process should apply without reopening the broader approval.

While introducing a dedicated minor-amendment pathway may require amendment of the EPBC Act, the Western Australian section 45C process provides a useful model for distinguishing minor changes from changes that require comprehensive assessment. In the interim, supporting guidance should provide greater clarity about the types of variations that are required to be dealt with under section 143 of the EPBC Act, supported by clear criteria, proportionate information requirements and defined decision timeframes.

Recommendation 8: Clarify in supporting guidance how the updated post approval processes and new approval tests (compliance with NES, unacceptable impact test and net gain test) apply to requests and decisions to extend an approval or vary an approved action. In particular, expressly confirm that these new tests do not apply to decisions to extend, or vary the conditions of, an approval issued under the current EPBC Act framework.

Recommendation 9: Consider introducing a dedicated minor-amendment pathway for existing approvals (this could be modelled on the section 45C process in Western Australia). In the absence of

³ Environment Protection Reform Act 2025, Schedule 1, Part 3, item 690.

undertaking the necessary legislative amendment, publish guidance clarifying the types of variations that must be addressed under section 143 of the EPBC Act.

Person's environmental history

The proposed EPBC Regulations require information to be provided about a person's environmental history, including the environmental history of executive officers and any parent body. The CEC acknowledges that these requirements are consistent with decision-making considerations already outlined in the EPBC Act (which are deliberately expressed in quite broad terms).

However, further guidance is needed to ensure that relevant information provision requirements are applied proportionately and are workable for proponents in practice. The history required to be provided by a proponent should be confined to relevant material matters, rather than a broad history regarding environmental performance generally.

In addition, guidance is required to enable proponents to understand which parent body is relevant and how the requirements apply to joint ventures and other complex corporate structures. The existing policy statement, *Consideration of a Person's Environmental History when making Decisions under the EPBC Act*, should be updated to address these matters.

We also note for completeness that Paper 2 states that the 'EPBC regulations will prescribe that an application to register a priority action, transfer or extend registration must include details of environmental compliance history, and evidence of ability to comply with conditions'.⁴ Noting that this point does not appear to be addressed in the Exposure Draft, our comments above regarding a person's environmental history may also apply in the context of registering a priority action (subject to the actual drafting).

Recommendation 10: Update the policy statement *Consideration of a Person's Environmental History when making Decisions under the EPBC Act* to clarify how proponents are expected to comply with requirements to provide information in relation to a person's history in relation to environmental matters. This should also explain how the requirements apply to parent bodies, joint ventures and other complex corporate structures.

⁴ Paper 2, page 7.

Consultation Paper 2 – Enabling landscape scale pathways

Mandatory inclusions in bioregional plans

Paper 2 notes that prescribed inclusions in bioregional plans would include: the calculation and use of developer charges and restoration contributions, requirements for restoration actions, identification of Matters of National Environmental Significance (**MNES**) and relevant habitat, justification of key plan boundaries and objectives, and arrangements for monitoring and stakeholder consultation.

We note that the portions of the EPBC Regulations included in the Exposure Draft do not address the bioregional plan requirements. We recommend that these sections be released for public comment to allow industry to properly consider and comment on Paper 2.

As a general comment, in addition to the matters identified in Paper 2, the CEC recommends that the EPBC Regulations require each bioregional plan to include the following:

- **Assessment methodology and decision rules:** a defined methodology for determining whether a proposed action is consistent with the plan, including how residual impacts, cumulative impacts and proposed avoidance and mitigation measures will be assessed.
- **Evidence base:** identification of the evidence, datasets, assumptions and information sources relied upon in preparing the plan. Ideally any key data gaps should also be clearly called out.
- **Cumulative impact assessment:** an assessment of existing, approved and reasonably foreseeable development across the plan area, including the assumptions used to estimate cumulative impacts on relevant MNES.
- **Spatial data and mapping methodology:** sufficiently detailed and accessible GIS data to enable proponents and regulators to determine how the plan applies to a particular project site, including development and conservation zones and relevant MNES and habitat layers.

The proposed regulations will require bioregional plans to identify the plan boundary and the boundaries of development and conservation zones. The CEC considers that these plans, and any associated guidance or mapping, should not operate as de facto exclusion zones. High-level mapping may not reflect the findings of site-specific surveys. The framework should therefore preserve a pathway for proponents to use robust project-level evidence to demonstrate that development can proceed while achieving the relevant environmental outcomes.

Recommendation 11: Release the Exposure Draft of the amendments relating to bioregional plans for public consultation. While we recommend that all the Exposure Draft be released, we consider it particularly important for the bioregional planning sections.

Recommendation 12: Include additional requirements for bioregional plans, including a defined assessment methodology and decision rules, the supporting evidence base, a cumulative impact assessment, and sufficiently detailed and accessible spatial data.

Recommendation 13: Ensure that bioregional plans, associated guidance and mapping do not operate as de facto exclusion zones, and preserve a pathway for proponents to use robust project-level evidence to demonstrate that development can proceed while achieving the relevant environmental outcomes.

Assumed development level

Under Paper 2, before registering a priority action, the Minister must be satisfied that the action would not cause the relevant 'assumed development level' to be exceeded.

The CEC considers that the concept of 'assumed development level' requires substantial clarification. The EPBC Regulations and supporting guidance should explain how the assumed development level will be calculated, the assumptions that will underpin it, and how existing, approved and proposed development will be treated. They should also establish how the level will be reviewed as better information becomes available about actual development and environmental impacts (in addition to the 5 yearly review of bioregional plans,⁵ or clarifying if this is the only time that the level is updated).

Without a transparent and adaptive approach, the assumed development level could operate on a 'first-come, first-serve' basis, allowing early projects to consume a disproportionate share of the available impact envelope. This may create an incentive to advance immature projects and prejudice projects that are more developed, lower impact or better aligned with the objectives of the bioregional plan.

The framework should therefore include transparent allocation of how the 'assumed development level' will operate in practice. We also recommend that there be a 're-allocation' mechanism so that capacity attributed to projects that are materially delayed, withdrawn or do not proceed is returned to the available development envelope. Any such arrangements should include appropriate milestones and safeguards to avoid creating unnecessary uncertainty for projects that are progressing in good faith.

Recommendation 14: Clearly prescribe the methodology, assumptions and data used to establish an assumed development level, including how existing and pipeline development will be treated and how the level will be periodically reviewed and adjusted to reflect actual development and environmental impacts.

Recommendation 15: Establish transparent allocation and 're-allocation' mechanisms in relation to the 'assumed development level', supported by appropriate project milestones, so that unused capacity is returned where a registered action is withdrawn, materially delayed or does not proceed. Further consideration and consultation on this recommendation would be required to ensure that appropriate safeguards are in place to protect proponents from any unreasonable application of such a mechanism.

⁵ Section 177CD in the consolidated EPBC Act.

Review of bioregional plans

Under the reformed EPBC Act, bioregional plans must be reviewed within the first five years and then within five years on an ongoing basis. Section 177CD of the EPBC Act states ‘within five years’ meaning there is flexibility for an earlier review. The proposed amendment is not included in the Exposure Draft. The regulations should make clear that an out-of-cycle review may be initiated where material changes in data, evidence or other relevant information fundamentally affect an aspect of the plan.

Where an out-of-cycle review is triggered, it should be capable of being confined to the matters affected by the new information rather than requiring reconsideration of the plan in its entirety. This would ensure that bioregional plans remain responsive to evolving evidence and do not lock in unduly conservative settings for particular species or environmental values where the underlying data may change significantly during the five-year review period.

Reviews should also consider whether the plan is operating effectively in practice, including its effectiveness in supporting priority actions to progress through approval and reach financial close. The review should extend beyond updated information about protected matters to encompass any information relevant to the plan’s operation, including changes affecting priority actions, development zones, conservation zones, the assumed development level and the effectiveness of the plan’s implementation mechanisms.

Recommendation 16: Clarify in the regulations that a bioregional plan may be reviewed before the five-year deadline where material changes in data, evidence or other relevant information fundamentally affect an aspect of the plan, and allow any such review to be confined to the matters affected by that change.

Recommendation 17: Require reviews of bioregional plans to consider both whether the plan reflects current environmental information and whether it is operating effectively in practice, including in supporting priority actions to progress through approval and reach financial close.

Strategic assessments

The CEC supports the proposed amendment prescribing the NES that the Minister must consider under Part 10 of the EPBC Act. However, strategic assessments remain underutilised, and the decision not to prescribe further requirements under the available regulation-making powers is a missed opportunity to improve their practical application. Additional regulatory detail and supporting guidance could clarify the matters that strategic assessments must address and facilitate their use for coordinated development, particularly renewable energy projects within Renewable Energy Zones and offshore wind development.

For example, section 146(2)(g) of the EPBC Act allows regulations in relation to the matters which a strategic assessment must provide for. Regulations could provide specific guidance in relation to strategic assessment in Renewable Energy Zones or offshore wind to clarify the specific requirements,

including how such a strategic assessment would interact with any bioregional plans or bioregional guidance plans in the same area.

Recommendation 18: Develop regulations and supporting guidance under Part 10 of the EPBC Act (in particular under section 146(2)(g)) to facilitate their use for coordinated renewable energy development, including within Renewable Energy Zones and for offshore wind.

Consultation Paper 3 - Delivering new compensation options

Prescribing baseline for advanced restoration actions

Proposed regulations 6C.04 and 6C.06 together require an application to register an advanced restoration action to identify the relevant baseline for the condition of each protected matter and measure the expected improvement against that baseline. However, the Exposure Draft does not specify whether the baseline is (a) fixed at the condition of the protected matter when the advanced restoration action is registered or (b) reflects the condition that would be expected without the action, including any anticipated decline. This distinction will materially affect how expected improvement is calculated and whether an action can satisfy the registration criteria. The regulations or supporting guidance should therefore prescribe a clear and consistent approach to establishing and applying the baseline, aligned with the National Environmental Standard for Environmental Offsets.

Recommendation 19: Amend regulation 6C.06, or publish supporting guidance, to prescribe how the relevant baseline for an advanced restoration action must be established and applied, including whether expected improvement is measured against a fixed baseline or a declining counterfactual baseline, consistently with the Offset Standard.

Suspension and revocation without sufficient notice

Proposed regulation 6C.10 would allow the Minister to suspend or revoke the registration of an advanced restoration action for any failure to comply with monitoring, record-keeping, reporting or management plan requirements. The CEC considers that suspension or revocation should not be available for minor or readily remediable non-compliance unless the registered person has been notified of the issue and failed to rectify it within a reasonable period. A proportionate rectification process would reduce the risk that immaterial administrative errors result in significant regulatory consequences.

The CEC also does not support proposed paragraph 6C.10(1)(d), which would permit suspension or revocation where the advanced restoration action is considered unlikely to result in the expected improvement. Where the approved management plan is being implemented, uncertainty about whether the expected improvement will ultimately be achieved should be addressed through adaptive

management, including variation of the management plan or other relevant methodology processes. Allowing suspension or revocation on this basis creates evidentiary uncertainty and may discourage investment in advanced restoration actions.

Recommendation 20: Amend regulation 6C.10 to require notice and a reasonable opportunity to rectify remediable non-compliance before suspension or revocation of an advanced restoration action, and delete paragraph 6C.10(1)(d) so that uncertainty about achieving the expected improvement is addressed through adaptive management rather than suspension or revocation.

Recognition of advanced restoration actions under both state and federal schemes

Paper 3 indicates that the advanced restoration action register will be updated to allow an owner to seek recognition under other market-based mechanisms, including State and Territory offset schemes, and thereby capitalise on its investment. The CEC supports this flexibility in principle, as it may increase investment in restoration activities and enable projects to deliver benefits across complementary environmental markets.

Proposed regulation 6C.08 prevents an advanced restoration action, or part of an action, from being used more than once to satisfy a condition attached to an approval under Part 9 of the EPBC Act. It does not expressly prevent the same environmental benefit from also being recognised under another Commonwealth, State or Territory law, fund or scheme. This appears consistent with the policy intent described in Paper 3; however, the regulations do not explain how stacking will operate in practice or how double counting will be avoided. Clear guidance is required on when recognition under multiple schemes is permissible, how distinct environmental benefits or components of an action must be identified and accounted for, and how stacking will comply with Principle 5 of the National Environmental Standard for Environmental Offsets.

Recommendation 21: Publish guidance explaining when and how an advanced restoration action may be recognised under another Commonwealth, State or Territory law, fund or scheme, and how additionality and consistency with Principle 5 of the National Environmental Standard for Environmental Offsets is dealt with.

Variation and revocation of an advanced restoration action

Proposed regulation 6C.09 provides a mechanism for the registered person to apply to vary the registration of an advanced restoration action. However, this appears to be the only available process for amending an associated management plan, and a decision may take up to 40 business days. Requiring the full variation process for minor or administrative changes to a registered restoration action or accompanying management plan would be disproportionate and may delay timely adaptive management. The EPBC Regulations should provide a simplified pathway for minor variations that do not materially alter the registered action, its expected improvement or the matters it is intended to benefit. This pathway should be supported by clear eligibility criteria, proportionate information requirements and shorter decision timeframes.

Additionally, proposed regulation 6C.10 allows only the Minister to suspend or revoke the registration of an advanced restoration action where a specified ground is established. It does not allow the registered person to request voluntary revocation or surrender where the action has not been, and will not be, used to satisfy an approval condition. This omission may leave a person subject to ongoing monitoring, record-keeping and reporting obligations despite a legitimate decision not to proceed, potentially for an indefinite period. The EPBC Regulations should therefore establish a clear self-initiated revocation or surrender process, subject to safeguards confirming that the action has not been relied upon for an approval or otherwise used to generate an environmental benefit that must be maintained.

Recommendation 22: Introduce a simplified process for registered persons to seek minor variations to an advanced restoration action or management plan, with clear criteria, proportionate information requirements and shorter decision timeframes.

Recommendation 23: Allow a registered person to apply to voluntarily revoke or surrender a registration where the advanced restoration action has not been, and will not be, used to satisfy an approval condition, subject to appropriate safeguards.

Management plans

Proposed regulation 6C.04 requires an application to register an advanced restoration action to include a management plan, while Paper 3 states that the Minister will consider whether the application and management plan contain 'sufficient detail'.⁶ However, neither the proposed regulations nor Paper 3 clearly prescribe the minimum content of a management plan, the level of detail required, whether the plan must be independently reviewed or endorsed, or whether any approval or endorsement must be obtained before the registration application is submitted. This uncertainty may lead to inconsistent applications, requests for further information and avoidable delays. The EPBC Regulations should therefore prescribe the core matters that a management plan must address, including intended environmental outcomes, delivery activities and timeframes, governance and responsibilities, monitoring and reporting arrangements, risk management, adaptive management and funding or resourcing. Supporting guidance should also clarify the evidentiary standard for demonstrating that a plan is sufficiently detailed and identify any person or body required to review, endorse or approve the plan, and the stage at which this must occur.

Recommendation 24: Amend regulation 6C.04 to prescribe the minimum content of an advanced restoration action management plan, including intended outcomes, delivery activities and timeframes, governance and responsibilities, monitoring and reporting, risk management, adaptive management and funding or resourcing arrangements.

Recommendation 25: Clarify in the EPBC Regulations or supporting guidance the standard for determining whether a management plan contains sufficient detail, whether it must be independently

⁶ Paper 3, page 19.

reviewed, endorsed or approved, who is responsible for that process, and whether it must occur before an application for registration is submitted.

Consultation Paper 4 – Other consequential changes

Publication requirements

The CEC supports the proposed regulations to modernise publication requirements. As the relevant provisions of the Exposure Draft have not been released, we make the following general comments. Publication requirements should remain proportionate and avoid unnecessary duplication for proponents. In particular, proponents should be able to use existing project or corporate websites where those websites meet the relevant accessibility and transparency requirements.

The requirement to publish a summary of feedback received should be supported by regulations clarifying that the summary focuses on the key issues raised, rather than creating a requirement to respond to each aspect of every submission.

Recommendation 26: Limit the proposed requirement to prepare summaries of consultation feedback to identifying the key issues raised and explain how they were considered and addressed, rather than requiring an individual response to every submission. The regulations should also include clear protections for confidential, commercially sensitive and personal information.

The CEC welcomes further engagement with DCCEEW in relation to the EPBC reforms. If you have any queries or would like to discuss this submission in more detail please contact Elise Rutherford on erutherford@cleanenergycouncil.org.au or Tiana MacLeod on tmacleod@cleanenergycouncil.org.au.

Kind regards



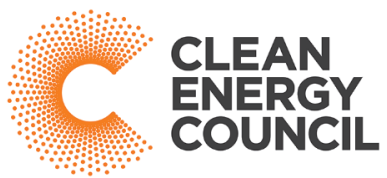
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Annexure A – Recommended amendments to the EPBC Regulations regarding approvals

Black text = original exposure draft

Green text = recommended additions

Red-strikethrough = recommended deletions

[Grey] = comments

Part 1—Main amendments

Environment Protection and Biodiversity Conservation Regulations 2025

1 Subparagraph 3.02(b)(ii)

Repeal the subparagraph.

2 Paragraph 4.02(1)(a)

Omit “Department”, substitute “Minister”.

3 Paragraph 4.02(1)(b)

Omit “in writing or”.

4 After paragraph 4.02(1)(b)

Insert:

(ba) be in the approved form (if any); and

5 Subregulation 4.03(2)

Repeal the subregulation, substitute:

- (2) However, the following information does not have to be included in the referral:
- (a) information that is confidential;
 - (b) information that may endanger a species or site of environmental significance if the information is disclosed;
 - (c) information that is culturally sensitive;
 - (d) information that is personal information (within the meaning of the *Privacy Act 1988*) about persons other than:
 - (i) the designated proponent; or
 - (ii) if the person proposing to take the action is different from the designated proponent—the person proposing to take the action;

- (e) information that is the intellectual property of a person;
- (f) Information of a kind that could only reasonably be obtained by preparing an environmental impact statement; and/or
- (g) subject to Part 2 of Schedule 2, details regarding whether (and, if so, how) the proposed action is consistent with any national environmental standards prescribed by these regulations for the purposes of subsection 136A(1) of the Act.

[Note: Paper 1 provides that under proposed new regulations, proponents will have a non-mandatory opportunity to demonstrate alignment with relevant National Environmental Standards within referral documentation. Given this is not mandatory we recommend making it clear that information demonstrating compliance is not required to be provided with the referral information]

[Note: the amendment deletes the existing clarification that ‘information does not have to be included if it would, in all the circumstances, be unreasonable to expect the information to be included’. We note that the current wording does not address this category of materials. We recommend either reinstating this exemption or at a minimum retain the exclusion for information that could only be obtained by preparing an EIS]

6 Subregulation 4.03(3)

Repeal the subregulation (including the notes), substitute:

- (3) If information has not been included in the referral in accordance with subregulation (2), the referral must include a statement explaining which kind or kinds of information were not included (including by reference to the relevant paragraph of subregulation 4.03(2)).

Note 1: The Minister may request that information if the Minister is satisfied that the information is reasonably necessary in order for the Minister to make an informed decision as to whether the action is a controlled action or which provisions of Part 3 of the Act are controlling provisions for the action—see section 76 of the Act.

Note 2: It is an offence to be reckless or negligent as to whether information provided under this regulation is false or misleading in a material particular—see section 489 of the Act.

7 Paragraph 4.04(1)(a)

Omit “in writing or”.

8 Paragraph 4.04(2)(a)

Omit “allocated by the Department for the action”, substitute “for the referral”.

9 Subparagraph 4.05(2)(b)(i)

Omit “allocated by the Department to the larger action”, substitute “for the referral for the larger action”.

10 Paragraph 4A.01(2)(a)

Omit “, allocated by the Department”.

11 Division 5.1A of Part 5

Repeal the Division.

[Note: Subdivision D also relates to assessment on referral information and will need to be repealed. We appreciate that this may be included in the sections of the regulations that have not been released for public consultation]

12 Division 5.2 of Part 5

Repeal the Division, substitute:

Division 5.2—Matters to be addressed by environmental impact statement

5.04 Matters that must be addressed by environmental impact statement

For the purposes of paragraphs 101A(3)(b) and 102(2)(b) of the Act, the Minister must seek to ensure a draft environmental impact statement addresses the matters mentioned in Schedule 4.

13 After Division 5.2 of Part 5

Insert:

Division 5.2A—Decisions on approval and conditions

5.04A Prescribed national environmental standards—approvals under Part 9 of the Act

For the purposes of subsection 136A(1) of the Act, the following national environmental standards, as in force from time to time, are prescribed:

- (a) *National Environmental Standard (Matters of National Environmental Significance) 2026;*
- (b) *National Environmental Standard (Environmental Offsets) 2026;*
- (c) *National Environmental Standard (Community Engagement) 2026;* and
- (d) *National Environmental Standard (Data and Information) 2026.*

14 Before paragraph 5.05(a)

Insert:

- (aa) the name of the approval holder;
- (ab) the identification number for the approval;
- (ac) a descriptive title for the action;
- (ad) a brief description of the action;
- (ae) the location of the action;

15 Subparagraphs 5.05(c)(ii) and (iii)

Omit “of national environmental significance”, substitute “protected by a provision of Part 3 of the Act for which the approval has effect”.

16 At the end of paragraph 5.05(c)

Add:

- ; and (iv) extending the approval period for the action will be consistent with any national environmental standard prescribed by these regulations for the purposes of subsection 136A(1) of the Act; and
- (v) extending the approval period for the action will not result in the action having an unacceptable impact on a matter protected by a provision of Part 3 of the Act for which the approval has effect; and
- (vi) if the action has had, will have or is likely to have a residual significant impact on a matter protected by a provision of Part 3 of the Act for which the approval has effect—extending the approval period for the action will continue to ensure that the approval passes the net gain test in relation to the matter.

Note 1: For the purposes of subparagraph (c)(v), see the definition of *unacceptable impacts* in section 527F of the Act.

Note 2: For the purposes of subparagraph (c)(vi), see the definitions of *residual significant impact* and *passes the net gain test* in sections 527J and 527K of the Act.

17 Subregulation 5.06(1)

Omit “at an appropriate location on the internet”, substitute “on the Department’s website”.

18 Paragraph 5.06(2)(a)

Omit “, allocated by the Department”.

19 Paragraph 5.07(a)

Omit “in writing or”.

20 Paragraph 5.07(b)

Omit “or sent to the Department”, substitute “to the Minister”.

21 Before paragraph 5.08(a)

Insert:

- (aa) the name of the person proposing to take the action;
- (ab) the identification number for the referral;
- (ac) a descriptive title for the original proposal;
- (ad) a brief description of the original proposal;
- (ae) the location of the original proposal;

22 Paragraph 5.08(a)

Omit “action”, substitute “original proposal”.

23 Paragraphs 5.08(c) and (d)

Omit “of national environmental significance”, substitute “protected by a provision of Part 3 of the Act”.

24 Paragraph 5.08(e)

Repeal the paragraph, substitute:

- (e) if applicable, for the additional **significant** impacts on matters protected by a provision of Part 3 of the Act—details of:
 - (i) any feasible alternatives to undertaking the varied proposal which were considered but which are not proposed; and
 - (ii) any changes to, or additional, avoidance, mitigation or repair measures to address the additional **significant** impacts; and
 - (iii) any changes to, or additional, compensation measures to address the additional **significant** impacts.

[Note: sections 527J and 527K of the Act relate to significant impacts and residual significant impacts are determined by reference to that definition. We do not consider that this provision should be expanded to any impacts]

25 Subregulation 5.09(1)

Omit “at an appropriate location on the internet”, substitute “on the Department’s website”.

26 Paragraphs 5.09(2)(a) and 5.10(a)

Omit “, allocated by the Department”.

27 At the end of regulation 5.10

Add:

- ; (j) a declaration of:
 - (i) the second person’s history in relation to environmental matters; and
 - (ii) if the second person is a body corporate—the history of its executive officers in relation to environmental matters; and
 - (iii) if the second person is a body corporate that is a subsidiary of another body or company (the **parent body**)—the history in relation to environmental matters of the parent body and its executive officers.

28 Regulation 5.11

Omit “at an appropriate location on the internet”, substitute “on the Department’s website”.

29 Paragraph 5.18A(a)

Omit “internet”, substitute “Department’s website”.

Annexure B – Recommended amendments to the EPBC Regulations regarding advanced restoration actions

Black text = original exposure draft

Green text = recommended additions

Red strikethrough = recommended deletions

[Grey] = comments

Part 6C—Advanced restoration actions

Division 1—Simplified outline of this Part

6C.01 Simplified outline of this Part

The Minister is required to keep a register of advanced restoration actions, which must be published on the Department’s website. A registered advanced restoration action may, in the prescribed circumstances, satisfy a condition that may be attached to an approval under Part 9 of the Act.

If a person applies to the Minister to register an advanced restoration action, the Minister must, within 40 business days, decide to register, or refuse to register, the advanced restoration action.

If the Minister decides to register an advanced restoration action, the Minister must cause an entry to be made in the register within 20 business days, which must include certain information. The Minister must also update the register in certain circumstances. A registration of an advanced restoration action may be varied, suspended, revoked or transferred.

The person in relation to whom an advanced restoration action is registered has obligations under Division 4 of this Part, including to monitor the advanced restoration action, as well as record-keeping and reporting requirements.

Division 2—Purpose of this Part

6C.02 Purpose of this Part

This Part is made for the purposes of section 170CAA of the Act.

Division 3—Register of advanced restoration actions

6C.03 Minister must keep register of advanced restoration actions

The Minister must:

- (a) cause a register of advanced restoration actions to be kept; and
- (b) cause the register to be published on the Department's website.

6C.04 Applying to register advanced restoration actions

- (1) A person may apply to the Minister to register an advanced restoration action.
- (2) The application must:
 - (a) be made in the approved form; and
 - (b) include the information required by the approved form; and
 - (c) include:
 - (i) the name of the person in relation to whom it is proposed that the advanced restoration action be registered; and
 - (ii) if that person is not the applicant—evidence that the person has agreed to be the person in relation to whom the advanced restoration action is proposed to be registered; and
 - (d) include a description of the advanced restoration action that:
 - (i) includes the information referred to in subregulation 6C.06(34) (description of advanced restoration action—nature of activities and site); and
 - (ii) includes the information referred to in subregulation 6C.06(45) (description of advanced restoration action—protected matters); and
 - (e) include a management plan, for the advanced restoration action, which must specify the following ~~a monitoring framework; and~~
 - (i) the intended outcome or outcomes resulting from the advanced restoration action;
 - (iii) how the advanced restoration action will be delivered;
 - (iv) the amounts that have been, or are being, spent on the advanced restoration action; and
 - (v) identification of risks and mitigation strategies in relation to the advanced restoration action.

[Note: it is unclear the level of detail required to be included in a management plan, and whether this management plan is required to be signed off and by whom. Paper 3 states at [3.3.4] that ‘When determining whether or not to register an advanced restoration action, the Minister will consider ... whether the application and advanced restoration action management plan, contains sufficient detail’. Accordingly, we recommend including additional information in the Regulations. We also recommend confirming whether the plan must have been approved at the time it is submitted for registration.]

- (f) if the advanced restoration action is registered (however described) under another Commonwealth, State or Territory law, **fund** or scheme—include details of that registration. *[Note: clarify that funds such as Pilbara Environmental Offsets Fund would also be captured]*

6C.05 Minister may register advanced restoration action

- (1) Within 40 business days beginning on the day the Minister receives an application under regulation 6C.04, the Minister must decide to:
 - (a) register the advanced restoration action; or
 - (b) refuse to register the advanced restoration action.

Note: The Minister is not prevented from deciding to register an advanced restoration action only because the advanced restoration action has commenced: see the definition of **advanced restoration action** in subsection 170CAA(1) of the Act.

Minister’s decision

- (2) The Minister may decide to register an advanced restoration action if the Minister is satisfied that:
 - (a) the advanced restoration action is likely to result in an expected improvement, against the relevant baseline included in the application, to one or more matters protected by a provision of Part 3 of the Act referred to in the description of the advanced restoration action included in the application in accordance with paragraph 6C.04(2)(d); and
 - (b) the management plan for the advanced restoration action ~~is appropriate for managing the advanced restoration action~~ **has sufficient detail | has been endorsed**; and *[Note: we recommend including further clarification regarding when a management plan will be acceptable. If a plan is required to be signed off prior to submission, that sign off should satisfy this requirement.]*
 - (c) the advanced restoration action is not inconsistent with any protection statement made by the Minister under subsection 298A(1) of the Act; and
 - (d) the advanced restoration action is not directed at protecting, conserving or restoring a matter protected by a provision of Part 3 of the Act that is prescribed by regulations made for the purposes of subsection 134(3AC) of the Act (matters in relation to which the Minister must not attach a condition to an approval of an action).

- (3) The Minister must have regard to the following in determining whether the Minister is satisfied of the matters in paragraphs (2)(a) to (d):
- (a) matters relevant to a matter protected by a provision of Part 3 of the Act that is intended to be protected, conserved or restored by the advanced restoration action;
 - (b) any other matters the Minister considers relevant.

Minister may request further information

- (4) The Minister may, by notice to the applicant, request specified information relevant to making the decision if the Minister is satisfied that the information included in the application is reasonably necessary to allow the Minister to make an informed decision under subregulation (1).
- (5) The following days are not to be counted as a business day for the purposes of subregulation (1) if the Minister requests information under subregulation (4):
- (a) the day the Minister requests the information;
 - (b) any later day on or before the day on which the Minister receives the last of the information requested.

Notice and publication of decision

- (6) The Minister must, as soon as practicable after making a decision under subregulation (1):
- (a) give the applicant written notice of the decision; and
 - (b) if the Minister decides to register the advanced restoration action—cause a copy of the notice to be published on the Department’s website **in accordance with regulation 6C.06**; and
 - (c) if the Minister decides to refuse to register the advanced restoration action—give the applicant a statement of reasons for the decision.

6C.06 Registration of advanced restoration actions

- (1) The Minister must, within 20 business days beginning on the day the Minister decides under paragraph 6C.05(1)(a) to register an advanced restoration action, cause an entry in the register to be made for the advanced restoration action.

What an entry on the register must include

- (2) **Subject to subregulation 6C.06(3)**, the entry must contain the following:
- (a) the name of the person (the **registered person**) in relation to whom the advanced restoration action is registered;
 - (b) a description of the advanced restoration action that:
 - (i) includes the information referred to in subregulation **(34)**; and
 - (ii) includes the information referred to in subregulation **(45)**; and

- (c) the management plan for the advanced restoration action;
- (d) the day the Minister decided to register the advanced restoration action;
- (e) if the advanced restoration action is being, or has been, used to satisfy a condition of an approval of an action (the **approved action**) under Part 9 of the Act—the following:
 - (i) the identification number for the approved action;
 - (ii) a description of the significant impact of the approved action on a matter protected by a provision of Part 3 of the Act for which the advanced restoration action is intended to compensate;
 - (iii) a description of the extent to which any aspect of the advanced restoration action is not intended to compensate for a significant impact of the approved action;
- (f) if the advanced restoration action is registered (however described) under another Commonwealth, State or Territory law, **fund** or scheme—details of that registration;
[Note: clarify that funds such as Pilbara Environmental Offsets Fund would also be captured]
- (g) if the registered person has provided the Minister with a report on the advanced restoration action in accordance with regulation 6C.14—that report;
- (h) if the registered person has provided the Minister with a copy of a record relating to the advanced restoration action in accordance with subregulation 6C.13(3)—that copy;
- (i) if the registration of the advanced restoration action has been varied, suspended, revoked or transferred—particulars of that variation, suspension, revocation or transfer;
- (j) any other information the Minister considers appropriate to include in the entry.

(3) An entry is not required to contain the following:

- (a) information that is confidential;
- (a) information that may endanger a species or site of environmental significance if the information is disclosed;
- (a) information that is culturally sensitive;
- (a) information that is personal information (within the meaning of the *Privacy Act 1988*) about persons other than the registered person; and
- (a) information that is the intellectual property of a person.

[Note: we recommend including some restrictions on the type of material published on the register. We have taken the recommended wording from that proposed subregulation 4.03(2) in relation to limitations on materials that must be provided as part of a referral]

Description of advanced restoration action—nature of activities and site

- (34) For the purposes of subparagraph 6C.04(2)(d)(i) and subparagraph (2)(b)(i) of this regulation, the information is information about the following:

- (a) the activities that make up or form part of, or are proposed to make up or form part of, the advanced restoration action;
- (b) whether those activities have commenced;
- (c) the location, or proposed location, of the site of the advanced restoration action, including:
 - (i) a description of the site (which may include one or more maps); and
 - (ii) the area of the site, in hectares; and
 - (iii) survey information (which may be limited to desktop surveys) about the site, including information about the ecosystems present and the condition and location of such ecosystems in the landscape or region;
- (d) the timeframe, or proposed timeframe, for the advanced restoration action;
- (e) the extent to which the advanced restoration action is, or will be, securely protected;
- (f) how the data and information provided in the description of the advanced restoration action are:
 - (i) representative; and
 - (ii) to the extent practicable, comparable, reusable and ethically collected, managed and used.

Note 1: For paragraph (e), section 9 of the *National Environmental Standard (Environmental Offsets) 2026* sets out when certain activities, including an offset activity registered as an advanced restoration action, are securely protected.

Note 2: For paragraph (f), sections 8, 10, 11 and 12 of the *National Environmental Standard (Data and Information) 2026* deal with when data and information are representative, comparable, reusable and ethically collected, managed and used.

Description of advanced restoration action—protected matters

- (45) For the purposes of subparagraph 6C.04(2)(d)(ii) and subparagraph (2)(b)(ii) of this regulation, the information is information about the following:
- (a) the matters protected by a provision of Part 3 of the Act that are intended to be protected, conserved or restored by the advanced restoration action;
 - (b) the extent to which the site of the advanced restoration action supports, or would support, each such matter, including, if applicable, whether based on survey information collected as part of the referral, the matter is currently present or uses the site, or whether the site would provide potential habitat for the matter;
 - (c) the expected improvement to each such matter as a result of the advanced restoration action, including:
 - (i) the relevant environmental feature, attribute or habitat (as applicable) of the matter that is intended to be improved, and the target improvement for that feature, attribute or habitat; and
 - (ii) a the likely-baseline for the condition of the each protected matter; and
 - (iii) a measurement of the improvement (if any) and the expected improvement against that baseline (or baselines); and

- (iv) information demonstrating that the advanced restoration action has resulted in, or is feasible and is likely to result in, ~~the~~ the expected improvement for the matter; and
- (v) information about the extent to which the advanced restoration action is, or will be, providing a tangible benefit to the matter; *[Note: we recommend clarifying whether benefit is to be measured against a fixed baseline or declining baseline i.e. whether it is an absolute gain.]*
- (d) any identified risks or uncertainties that may affect the likelihood of the advanced restoration action achieving the expected improvement to each such matter, and the extent to which those risks or uncertainties will be mitigated.

6C.07 Minister must update register in certain circumstances

The Minister must cause the entry for a registered advanced restoration action to be updated within 20 business days beginning on the day that:

- (a) the Minister makes a decision to vary, suspend, revoke or transfer the registration of the advanced restoration action; or
- (b) the registration ceases to be suspended after a period of suspension; or
- (c) the Minister makes a decision under Part 9 of the Act to approve the taking of an action that includes a condition that requires the advanced restoration action to be carried out; or
- (d) the Minister makes a decision under section 143 of the Act to vary, revoke, or attach a new condition to an approval under Part 9 of the Act that requires the advanced restoration action to be carried out; or
- (e) **subject to subregulation 6C.06(3)**, the Minister otherwise becomes aware of information relevant to the entry that the Minister is satisfied should be added to the register.

6C.08 Satisfying conditions attached to approvals under Part 9 of the Act

A registered advanced restoration action, or part of a registered advanced restoration action, may satisfy a condition that may be attached to an approval under Part 9 of the Act if the Minister is satisfied that:

- (a) the advanced restoration action, or that part of the advanced restoration action, has not previously been used to satisfy a condition attached to an approval under Part 9 of the Act; and
- (b) the registration of the advanced restoration action is not suspended and has not been revoked.

Note: A condition requiring an advanced restoration action, or part of an advanced restoration action, to be carried out can only be attached to a Part 9 approval if the condition meets the requirements of section 134 (conditions of approval) of the Act.

6C.09 Minister may vary registration of advanced restoration action

- (1) The person in relation to whom an advanced restoration action is registered may apply to the Minister to vary the registration.
- (2) The application must:
 - (a) be made in the approved form; and
 - (b) include the information required by the approved form; and
 - (c) include details of the proposed variation.
- (3) Within 40 business days beginning on the day the Minister receives an application under subregulation (1), the Minister must decide to:
 - (a) vary the registration of the advanced restoration action; or
 - (b) refuse to vary the registration.

Minister's decision

- (4) The Minister ~~may~~ **must** decide to vary the registration of the advanced restoration action if the Minister is satisfied that, if the proposed variation were made:
 - (a) either of the following applies:
 - (i) unless subparagraph (ii) applies—the advanced restoration action would still be feasible and likely to result in the expected improvement, referred to in paragraph 6C.06(45)(c), to one or more matters protected by a provision of Part 3 of the Act included in the registered description of the advanced restoration action;
 - (ii) if the proposed variation is to that expected improvement—the advanced restoration is still feasible and likely to result in the expected improvement as varied; and
 - (b) the management plan, or if applicable the management plan as varied, for the advanced restoration action would still be appropriate for managing the advanced restoration action.

Notice and publication of decision

- (5) The Minister must, as soon as practicable after making a decision under subregulation (3):
 - (a) give the applicant:
 - (i) written notice of the decision; and
 - (ii) if the Minister decides to refuse to vary the registration—a statement of reasons for the decision; and
 - (b) if the Minister decides to vary the registration—cause a copy of the notice to be published on the Department's website.

- (6) A notice of a decision to vary a registration must specify the day the variation takes effect, which must be the day the Minister gives the notice or a later day.

6C.10 Suspension or revocation of registration of advanced restoration action

Minister's decision

- (1) The Minister may suspend or revoke the registration of an advanced restoration action if the Minister is satisfied that:
- (a) the person in relation to whom the advanced restoration action is registered has failed to:
 - (i) monitor the advanced restoration action in accordance with regulation 6C.12, **and has failed to rectify that failure within a reasonable time upon becoming aware of that failure;** or
 - (ii) make or retain records in relation to the advanced restoration action in accordance with regulation 6C.13, **and has failed to rectify that failure within a reasonable time upon becoming aware of that failure;** or
 - (iii) comply with a notice under subregulation 6C.13(3) requiring the person to give the Minister a copy of a record, **and has failed to rectify that failure within a reasonable time upon becoming aware of that failure;** or
 - (iv) give the Minister a report in relation to a reporting period in accordance with regulation 6C.14, **and has failed to rectify that failure within a reasonable time upon becoming aware of that failure;** or
 - (b) the person has not managed, or is not managing, the advanced restoration action consistently with the management plan for the advanced restoration action, **and has failed to rectify that failure within a reasonable time upon becoming aware of that failure;** or
 - (c) any of the following included false or misleading information:
 - (i) an application relating to the registration of the advanced restoration action, or a variation or transfer of the registration;
 - (ii) information provided by the person in response to a request from the Minister, under subregulation 6C.05(4), for further information;
 - (iii) a copy of a record given by the person to the Minister in compliance with subregulation 6C.13(3) (Minister may require provision of records); **or**
 - (iv) a report given by the person to the Minister in compliance with regulation 6C.14 (reporting requirements). ~~;~~ ~~or~~
 - ~~(d) the advanced restoration action is not likely to result in the expected improvement, referred to in paragraph 6C.06(4)(c), to one or more matters protected by a provision of Part 3 of the Act included in the registered description of the advanced restoration action. [Note: we consider that it is inappropriate for the Minister to be able to suspend or revoke the registration in the circumstances outlined in paragraph (d). If the plan has been approved and the proponent is undertaking the agreed management actions, this should be sufficient. There is also an evidentiary~~

concern regarding on what basis and what evidence the Minister would make this decision. Finally, we consider that there are more appropriate avenues for this scenario such as updates to management plan / under the methodology (e.g. for a Nature Repair Market project), as opposed to suspending or revoking the decision. Inclusion of paragraph (d) could create investment uncertainty and discourage proponents from pursuing advanced restoration actions. We suggest deleting paragraph (d).]

Notice and publication of decision

- (2) The Minister must, as soon as practicable after making a decision under subregulation (1):
- (a) give the person:
 - (i) written notice of the decision; and
 - (ii) a statement of reasons for the decision; and
 - (b) cause a copy of the notice to be published on the Department's website.
- (3) The notice must specify:
- (a) the day the suspension or revocation (as applicable) of the registration of the advanced restoration action takes effect, which must be the day the Minister gives the notice or a later day; and
 - (b) if the notice is of a decision to suspend the registration—that the registration is suspended:
 - (i) for the period specified in the notice; or
 - (ii) if the notice does not specify a period, but specifies that the suspension continues until the Minister notifies the person in writing that the Minister is satisfied a specified event has occurred—until the Minister gives that notification.

Note: A specified event may be the completion of activities by the person in relation to whom the advanced restoration action is registered (such as the provision of an outstanding report).

Consequences of revocation

- (4) If the Minister revokes the registration of an advanced restoration action:
- (a) for the purposes of this Part, the advanced restoration action ceases to be a registered advanced restoration action; and
 - (b) the revocation does not, of itself, affect the entry in the register for the advanced restoration action.

Note 1: Under regulation 6C.07, the Minister must update the entry in the register to reflect the revocation.

Note 2: The obligations under Division 4 cease to apply to the person in relation to whom the advanced restoration action was registered when the registration is revoked.

6C.11 Minister may transfer registration of advanced restoration action

- (1) The person in relation to whom an advanced restoration action is registered (the **transferor**) may apply to the Minister to transfer the registration to another person.
- (2) The application must:
 - (a) be in the approved form; and
 - (b) include the information required by the approved form; and
 - (c) include:
 - (i) the name of the person (the **transferee**) in relation to whom it is proposed that the registration be transferred; and
 - (ii) evidence that the transferee has agreed to the transfer.

Minister's decision

- (3) Within 40 business days beginning on the day the Minister receives an application under subregulation (1), the Minister ~~must decide to:~~
 - (a) if the Minister is satisfied it is appropriate to do so, **having regard to the matters specified in subregulation (4) —must decide to** transfer the registration to the transferee; or
 - (b) otherwise—refuse to transfer the registration.
- (4) **When determining whether it is appropriate to approve a transfer under subregulation (3), the Minister will have regard to the following non-exhaustive matters:**
 - (a) **the transferee's capacity, expertise and resources to carry out the advanced restoration action and comply with the management plan; and**
 - (b) **the transferee's history of responsible environmental management and compliance with environmental laws.** *[Note: we recommend providing more specificity regarding the factors the Minister will consider]*

Notice and publication of decision

- (45) The Minister must, as soon as practicable after making a decision under subregulation (3):
 - (a) give the transferor and the transferee written notice of the decision; and
 - (b) if the Minister decides to transfer the registration—cause a copy of the notice to be published on the Department's website; and
 - (c) if the Minister decides to refuse to transfer the registration—give the transferor and the transferee a statement of reasons for the decision.
- (56) A notice of a decision to transfer a registration must specify the day the transfer takes effect, which must be the day the Minister gives the notice or a later day.

Division 4—Obligations for registered advanced restoration actions

6C.12 Monitoring of registered advanced restoration actions

- (1) The person in relation to whom an advanced restoration action is registered must monitor:
 - (a) the carrying out of the advanced restoration action; and
 - (b) the improvement, as a result of the advanced restoration action, to each matter protected by a provision of Part 3 of the Act that is included in the entry on the register for the advanced restoration action.
- (2) The monitoring must be carried out consistently with the management plan for the advanced restoration action.

Note: Failure to comply with the obligation in this regulation is a ground for suspension or revocation of the registration of the advanced restoration action: see regulation 6C.10.

Cessation of requirement

- (3) The requirement in subregulation (1) ceases to apply to the person once the whole of the advanced restoration action has been, or is being, used to satisfy a condition attached to an approval of an action under Part 9 of the Act.

6C.13 Record-keeping requirements

- (1) The person in relation to whom an advanced restoration action is registered must keep a record of information about the following:
 - (a) the commencement of any activities that form part of the advanced restoration action;
 - (b) how each such activity has been, or is being, undertaken, including the extent to which this is consistent with the management plan for the advanced restoration action;
 - (c) any changes in activities that form part of the advanced restoration action;
 - (d) the results of the monitoring of the advanced restoration action carried out in compliance with regulation 6C.12;
 - (e) whether the advanced restoration action has been used to satisfy a condition attached to an approval of an action (the ***approved action***) under Part 9 of the Act and, if so, the identification number for the approved action.

Period for which records must be kept

- (2) The person must retain a record required to be kept under subregulation (1) until the earlier of:
 - (a) when the whole of the advanced restoration action has been, or is being, used to satisfy a condition attached to an approval of an action under Part 9 of the Act; or
 - (b) when the registration of the advanced restoration action is revoked.

Minister may require provision of records

- (3) The Minister may, by written notice, require the person to give a copy of a record required to be kept under subregulation (1) to the Minister within a specified period.

Note: Failure to comply with an obligation in this regulation is a ground for suspension or revocation of the registration of the advanced restoration action: see regulation 6C.10.

6C.14 Reporting requirements

- (1) The person in relation to whom an advanced restoration action is registered must give the Minister a report in relation to each of the following periods (a **reporting period**):
- (a) the period beginning on the day the advanced restoration action is registered and ending at the end of the financial year in which that day occurs;
 - (b) each later financial year.

- (2) The report must:
- (a) be given in the approved form; and
 - (b) include the information required by the approved form; and
 - (c) include information about the following in relation to the reporting period:
 - (i) whether any activities that make up or form part of, or are proposed to make up or form part of, the advanced restoration action were commenced during the reporting period and, if so, details of those activities;
 - (ii) any changes in the activities that make up or form part of the advanced restoration action that were made during the reporting period;
 - (iii) the results of any monitoring of the advanced restoration action required under regulation 6C.12 carried out during the reporting period;
 - (iv) the status of the advanced restoration action at the end of the reporting period;
 - (v) whether, during the reporting period, the advanced restoration action has been used to satisfy a condition attached to an approval of an action (the **approved action**) under Part 9 of the Act and, if so, the identification number for the approved action.

- (3) The person must give the report before the end of 31 October after the end of the reporting period.

Note: Failure to comply with the obligation in this regulation is a ground for suspension or revocation of the registration of the advanced restoration action: see regulation 6C.10.

Cessation of requirement

- (4) The requirement in subregulation (1) does not apply in relation to a reporting period if, in a previous reporting period, the whole of the advanced restoration action was being, or had been, used to satisfy a condition attached to an approval of an action under Part 9 of the Act.

Annexure C – Recommended amendments to the EPBC Regulations regarding information included in referrals

Black text = original exposure draft

Green text = recommended additions

Red strikethrough = recommended deletions

[Grey] = comments

Part 1—Information that must be included in all referrals

45 Item 1.01 of Schedule 2

After “telephone number,”, insert “email address,”.

46 Paragraph 2.02(a) of Schedule 2

Omit “and telephone number”, substitute “, telephone number and email address”.

47 Paragraph 2.02(b) of Schedule 2

Repeal the paragraph, substitute:

- (b) an agreement to the proposed designation that is:
 - (i) made in writing or electronically; and
 - (ii) signed by the proposed proponent and the person proposing to take the action.

48 Item 3 of Schedule 2

Repeal the item, substitute:

3 Whether the action is a controlled action

3.01 Whether the person proposing to take the action thinks the action may be or is a controlled action.

3.02 If that person thinks the action:

- (a) may be or is a controlled action:
 - (i) the provisions of the Act that the person believes may be or are controlling provisions for the action; and
 - (ii) why the person thinks the action may be or is a controlled action; and
 - (iii) whether the person would prefer the action to be assessed by streamlined assessment; or

- (b) is not a controlled action—why the person thinks the action is not a controlled action.

Note: If the referral is made by a person other than the person proposing to take the action, the person making the referral must obtain the information in items 3.01 and 3.02 from the person proposing to take the action.

49 Item 4 of Schedule 2

Repeal the item, substitute:

4 Description of the proposal

4.01 A description of the proposed action must include the following:

- (a) an outline of ~~the scope and objective of~~ the activities proposed to be carried out as part of the action; *[Note: scope and objective is potentially unclear, we recommend retaining the existing wording which focuses on the nature of the activities proposed]*
- (b) details of the project area, including the following:
 - (i) the location of the project area within the relevant region;
 - (ii) a description of the property or properties on which the action is to take place;
 - (iii) proposed access points for the project area;
 - (iv) current and historical land uses for the project area;
 - (v) whether the project area is held under freehold, leasehold or any other tenure, or affected by a covenant or other registered interest;
- (c) the proposed timeframe in which the action is proposed planned to be taken, including ~~proposed timeframes and~~ any alternative timeframes for the following activities for the action, if applicable:
 - (i) pre-development activities;
 - (ii) development activities;
 - (iii) operational activities;
 - (iv) decommissioning activities;
 - (v) activities relating to rehabilitating the project area for the action;
- (d) activities proposed to be carried out as part of the action, including:
 - (i) the approximate ~~size~~ impact footprint of each activity; and
 - (ii) the approximate geographical location of each activity in the project area;
- (e) an explanation of the context, including any relevant planning and/or biodiversity framework, in which the action is proposed;
- (f) whether the action is related to other actions or proposals in the region, which are either under assessment as part of a planning and/or biodiversity framework, or otherwise publicly available; *[Note: this should not extend to confidential or sensitive material in relation to say a proposed project that is not publicly available]*
- (g) whether the action is a component of a larger action;

- (h) details of any environmental assessment of relevant impacts of the action that has been, is being or will be carried out under State, Territory or Commonwealth legislation, including copies of assessment documentation (if available);
- (i) details of any engagement, **or planned engagement**, with the community (for example, with Indigenous persons who may be affected by the action) that has been undertaken **(or is planned to be undertaken)** in relation to the action, including the following details:
 - (i) a description of the process for undertaking the engagement, and the persons with whom the engagement was, **or is planned to be**, undertaken;
 - ~~(ii) whether the person proposing to take the action thinks that the engagement was undertaken in accordance with the *National Environmental Standard (Community Engagement) 2026*, as in force from time to time; [Note: given compliance with the standards is not a mandatory requirement at referral stage, we recommend removing this requirement from the list given all matters in this list must be provided (proponents can provide this information if they intend to access the streamlined pathway)]~~
 - (iii) a summary of the responses received as a result of the engagement **(if applicable)**;
 - ~~(iv) a description of whether the responses received (if applicable) were used to inform any adjustments to the planning and design of the action, and if so, how. [Note: this is more appropriately dealt with as part of an assessment of whether compliance with the CE standard has been met rather than a mandatory requirement at referral stage]~~
- (j) a description of any economic and social matters relevant to the action, including:
 - (i) measures that are proposed to reduce or minimise potential adverse economic and social effects of the action; and
 - (ii) potential economic and social benefits of the action;
- (k) a description of the potential consequences of not proceeding with the action (if available).

Note: For the purposes of 4.01(j)(ii), potential economic and social benefits includes any beneficial contribution the action would have for relevant government policy, including renewable energy targets and/or any consequential benefits from the action or class of action in reducing or minimising greenhouse gas emissions.

Note: For the purposes of 4.01(k), potential consequences of not proceeding with the action includes any reduction or inability to achieve relevant government policy, including renewable energy targets and/or any consequential impact on greenhouse gas emissions.

Example: For subparagraph (b)(ii), a lot number in a registered or deposited plan or similar description.

50 Item 5 of Schedule 2

Repeal the item, substitute:

5 Nature and extent of the likely impacts of the action

5.01 The nature and extent of the likely impacts of the action on any of the following:

- (a) the World Heritage values of a World Heritage property;
- (aa) the National Heritage values of a National Heritage place;
- (b) the ecological character of a Ramsar wetland;
- (c) the members of a listed threatened species (except a conservation dependent species) or any threatened ecological community, or their habitat;
- (d) the members of a listed migratory species or their habitat;
- (e) part of the Commonwealth marine area;
- (f) Commonwealth land;
- (g) the environment in the Great Barrier Reef Marine Park;
- (h) a water resource, if the action involves:
 - (i) unconventional gas development; or
 - (ii) large coal mining development.

5.02 For an impact referred to in item 5.01, the following information:

- (a) a description of the area affected by the impact, including by referring to a map (if appropriate);
- (b) whether the person proposing to take the action thinks the impact will be, or is likely to be, significant.

5.03 Whether the action is:

- (a) a radiological exposure action; or
- (b) an action by the Commonwealth or a Commonwealth agency; or
- (c) in a Commonwealth marine area; or
- (d) on Commonwealth land; or
- (e) in the Great Barrier Reef Marine Park.

5.04 If the action is of a kind mentioned in a paragraph of item 5.03, the following information:

- (a) the kind of action;
- (b) the nature and extent of the likely impacts of the action on the environment;
- (c) for an impact referred to in paragraph (b) of this item, whether the person proposing to take the action thinks the impact will be, or is likely to be, significant.

5.05 A map of the area (the ***affected area***) affected by any impacts of the action mentioned in item 5.01 or paragraph 5.04(b) on which the following features (if relevant) are marked:

- (a) the location of the action;
- (b) the location of the boundaries of the project area within the affected area if different from the boundaries of the affected area;

- (c) whether the affected area is held under freehold, leasehold or any other tenure, or affected by a covenant or other registered interest;
- (d) the approximate location of the activities that form part of the action;
- (e) to the extent reasonably practicable, the approximate geographical location of each of the impacts;

~~(f) the approximate boundary of any areas or habitat mentioned in a paragraph of item 5.01 affected by each of the impacts; [Note: this is more appropriately dealt with at 5.06 and should be subject to the 'practicable and relevant' limitation provided at subregulation (g)]~~

- (g) to the extent practicable and relevant, the information mentioned in item 5.06.

Note: If there are multiple impacts of the action in the same location within the affected area, this must be marked on the map.

5.06 A description of the project area and the affected area, including (if relevant to the project area or affected area) information about the following:

- (a) flora and fauna;
- (b) hydrology, including water flows;
- (c) the presence of outstanding natural features;
- (d) the presence of remnant native vegetation;
- (da) the presence and condition of any habitat for a listed threatened species, a listed threatened ecological community or a listed migratory species;
- (e) the current state of the environment, including any threats to the environment;
- (f) the presence of Commonwealth Heritage Places or other places recognised as having heritage values;
- (g) the presence of Indigenous heritage values;
- (h) other important or unique aspects of the environment.

51 Item 6.01 of Schedule 2

Omit “avoid, reduce, manage or offset”, substitute “avoid, mitigate or repair”.

52 At the end of item 6.01 of Schedule 2

Add:

Note: A measure may be implemented to avoid, mitigate or repair an impact, part of an impact or multiple impacts.

53 Items 6.02 and 6.03 of Schedule 2

Repeal the items, substitute:

6.02 For each of those measures, the following information:

- (a) whether the person proposing to take the action thinks the measure will be likely to reduce the relevant impact such that it is not a significant impact;
- (b) any known uncertainties about the likely effectiveness of the measure;

- (c) how the person proposing to take the action intends to implement the measure;
- ~~(d) whether the person proposing to take the action thinks that the measure is consistent with the National Environmental Standard (Matters of National Environmental Significance) 2026, as in force from time to time; [Note: given compliance with the standards is not a mandatory requirement at referral stage, we recommend removing this requirement from the list given all matters in this list must be provided (proponents can provide this information if they intend to access the streamlined pathway)]~~
- (e) a description of any feasible alternatives to the measure which were considered, but which are not proposed, including the following (if relevant):
 - (i) alternative locations that would allow for measures to avoid the impact to be implemented;
 - (ii) measures to mitigate the likely damage caused by the impact;
 - (iii) measures to repair the likely damage caused by the impact.

54 Items 7 and 8 of Schedule 2

Repeal the items, substitute:

7 Information sources—all referrals

7.01 For information given under item 5 or 6, the following:

- (a) the source of the information, including:
 - (i) any expert advice or other information used to support the information; and
 - (ii) whether the information was prepared by a person other than the person making the referral or the person proposing to take the action, and if so, the name and qualifications of that other person;
- (b) how recent the information is;
- (c) how the reliability of the information was tested;
- (d) what uncertainties (if any) are in the information;
- (e) whether the uncertainties could be reduced or removed by undertaking further assessment, including further surveys, scoping, engagement or additional measures.
- ~~(f) whether the person proposing to take the action thinks the information is consistent with the National Environmental Standard (Data and Information) 2026, as in force from time to time. [Note: given compliance with the standards is not a mandatory requirement at referral stage, we recommend removing this requirement from the list given all matters in this list must be provided (proponents can provide this information if they intend to access the streamlined pathway)]~~

8 Alternative proposals—all referrals

8.01 For any alternative proposals (within the meaning of subsection 72(3) of the Act) included in the referral, the information mentioned in items 4 to 7.

9 Optional detail regarding compliance with the National Environmental Standards

9.01 As part of the materials provided under items 4 to 7, the person proposing to take the action may include the following:

- (a) whether, and if so how, the person proposing to take the action thinks the information in 7.01, is consistent with the *National Environmental Standard (Data and Information) 2026*, as in force from time to time;
- (b) whether, and if so how, the person proposing to take the action thinks that each of the measures outlined in 6.01 is consistent with the *National Environmental Standard (Matters of National Environmental Significance) 2026*, as in force from time to time; and
- (c) whether, and if so how, the person proposing to take the action thinks that the engagement provided pursuant to 4.01(i) was undertaken in accordance with the *National Environmental Standard (Community Engagement) 2026*, as in force from time to time.

[Note: The CEC recommends deleting the mandatory referral-stage requirements in relation to details regarding compliance with the NES – this should be optional where they elect to pursue the streamlined assessment pathway. We have recommended a separate paragraph in the regulations which includes a general, optional ability to provide details regarding whether the standards have been complied with.]

55 At the end of Schedule 2

Add:

Part 2—Information that must be included in referrals for certain actions that person thinks may be or are controlled actions **to access the streamlined assessment**

9 Application of this Part

9.01 This Part applies in relation to an action if:

- (a) the person proposing to take the action thinks the action may be or is a controlled action; and
- (b) the person has specified under subparagraph 3.02(a)(iii) that they would prefer the action be assessed by streamlined assessment.

10 Environmental history

10.01 The following information about the person who should be designated as the proponent for the action if the Minister decides the action is a controlled action and, if different, the person proposing to take the action:

- (a) the person's history in relation to environmental matters;

- (b) if the person is a body corporate, the history of each of its executive officers in relation to environmental matters.; and
 - (ii) its environmental policy and planning framework;
- (c) if the person is a body corporate that is a subsidiary of another body or company (the *parent body*), the history of the parent body, and each of the executive officers of the parent body, in relation to environmental matters; and
 - (ii) the parent body's environmental policy and planning framework.

10.02 Without limiting item 10.01, the information given under that item must include details of any proceedings against the person under a Commonwealth, State or Territory law for the protection of the environment or the conservation and sustainable use of natural resources.

11 Application of the mitigation hierarchy and compensation

- 11.01 Evidence demonstrating that the impacts of the action mentioned in item 5.01 or paragraph 5.04(b) were identified in accordance with the *National Environmental Standard (Matters of National Environmental Significance) 2026*, as in force from time to time.
- 11.02 For each of those impacts that the person proposing to take the action thinks will be, or are likely to be, significant, the following information:
- (a) whether the impact on a matter protected by a provision of Part 3 of the Act will be an unacceptable impact (within the meaning of section 527F of the Act) and, if relevant, any measures proposed to avoid the impact being an unacceptable impact;
 - (b) evidence that demonstrates that the mitigation hierarchy in section 8 of the *National Environmental Standard (Matters of National Environmental Significance) 2026*, as in force from time to time, has been appropriately applied in relation to the impact;
 - (c) the proposed measures to monitor, report and evaluate the impact;
 - (d) if the impact is or is likely to be a residual significant impact, the proposed measures to compensate for damage that may or will be caused by the impact to ensure that an approval of the taking of the action passes the net gain test in relation to the residual significant impact;
 - (e) whether the proposed measures to compensate for the damage include an offset activity within the meaning of the *National Environmental Standard (Environmental Offsets) 2026*, as in force from time to time, and if so, the following:
 - (i) the details and location of the offset activity;
 - (ii) evidence that demonstrates that the offset activity will comply with the *National Environmental Standard (Environmental Offsets) 2026*, as in force from time to time; and
 - (iii) the proposed measures to monitor, report and evaluate the offset activity.

11.03 For each of the measures mentioned in item 6.01, information about the processes to be implemented to monitor, report and evaluate the effectiveness of the measures.

12 Consistency with international agreements and other documents

12.01 Whether the taking of the action in accordance with any measures mentioned in item 6.01 or paragraph 11.02(d) would not be inconsistent with the following to the extent relevant to the action:

- (a) a designated environmental instrument;
- (b) a designated international agreement;
- (c) a protection statement;
- (d) a recovery plan;
- (e) a threat abatement plan.

13 Economic and social matters

13.01 The following information:

- (a) a description of any economic and social matters relevant to the action, including:
 - (i) measures that are proposed to reduce or minimise potential adverse economic and social effects of the action; and
 - (ii) potential economic and social benefits of the action;
- (b) information about the potential consequences of not proceeding with the action (if available).

Note: For the purposes of 13.01(a)(ii), potential economic and social benefits includes any beneficial contribution the action would have for relevant government policy, including renewable energy targets and/or any consequential benefits from the action or class of action in reducing or minimising greenhouse gas emissions.

Note: For the purposes of 13.01(b), potential consequences of not proceeding with the action includes any reduction or inability to achieve relevant government policy, including renewable energy targets and/or any consequential impact on greenhouse gas emissions.

14 Information sources—referrals to which this Part applies

14.01 For information given under item 11, 12 or 13, the following information:

- (a) the source of the information, including:
 - (i) any expert advice or other information used to support the information; and
 - (ii) whether the information was prepared by a person other than the person making the referral or the person proposing to take the action, and if so, the name and qualifications of that other person;
- (b) how recent the information is;
- (c) how the reliability of the information was tested;
- (d) what uncertainties (if any) are in the information;

- (e) whether the uncertainties could be reduced or removed by undertaking further assessment, including further surveys, scoping, engagement or additional measures;
- (f) whether the person proposing to take the action thinks the information complies with the *National Environmental Standard (Data and Information) 2026*, as in force from time to time.

15 Alternative proposals—referrals to which this Part applies

15.01 For any alternative proposals (within the meaning of subsection 72(3) of the Act) included in the referral, the information mentioned in items 11 to 14.

56 Schedule 4 (heading)

Omit “public environment report and”.

57 Paragraph 1.01(b) of Schedule 4

Omit “and postal address”, substitute “, postal address, telephone number and email address”.

58 Paragraph 1.01(c) of Schedule 4

After “objective”, insert “and scope”.

59 Paragraph 1.01(d) of Schedule 4

Repeal the paragraph, substitute:

- (d) details of the project area, including the location of the project area within the relevant region;

60 At the end of paragraph 1.01(e) of Schedule 4

Add “, including whether the proposal has been varied under section 156B of the Act”.

61 At the end of item 1.01 of Schedule 4

Add:

- ; (i) whether the Minister has agreed, under paragraph 74AA(2A)(b) of the Act, for any components of the action to be taken.

62 Paragraph 2.01(a) of Schedule 4

Repeal the paragraph, substitute:

- (a) the proposed activities that are to be carried out as part of the action;

63 Paragraphs 2.01(d) and (e) of Schedule 4

Repeal the paragraphs.

64 Paragraph 2.01(g) of Schedule 4

Repeal the paragraph, substitute:

- (g) any feasible alternatives to taking the action (including not taking the action) which were considered, but which are not proposed, including any of the following:
 - (i) alternative sites or locations that would allow for measures to avoid the relevant impacts to be implemented;
 - (ii) alternatives for measures to mitigate the damage caused by the relevant impacts;
 - (iii) potential measures to repair damage caused by the relevant impacts;
 - (iv) sufficient detail to make clear why each identified alternative was not preferred;

65 Paragraph 2.01(h) of Schedule 4

Repeal the paragraph, substitute:

- (h) any engagement about the action, including the following:
 - (i) any engagement that has already taken place;
 - (ii) proposed engagement;
 - (iii) if there has been engagement about the proposed action—any documented response to, or result of, the engagement;
 - (iv) if there has been engagement about the proposed action—an assessment of whether the engagement was consistent with the *National Environmental Standard (Community Engagement) 2026*, as in force from time to time;

Note: Engagement may include, but is not limited to, consultation required under the Act.

66 At the end of item 2.01 of Schedule 4

Add:

- ; (j) any aspects of the proposed action that were modified as a result of community engagement or other circumstances.

67 Item 3.01 of Schedule 4

Omit “Information given under paragraph 2.01(d)”, substitute “The draft environmental impact statement”.

68 Paragraph 3.01(a) of Schedule 4

Repeal the paragraph, substitute:

- (a) a description of the relevant impacts of the action, including:
 - (i) any relevant impacts that were identified after the action was referred under section 68, 69 or 71 of the Act; and
 - (ii) identification of each matter that is protected by a provision of Part 3 of the Act that is likely to be impacted (including any matter that was not identified in the referral);

69 Paragraphs 3.01(d) and (e) of Schedule 4

Repeal the paragraphs, substitute:

- (d) for each relevant impact—an assessment of:
 - (i) whether the impact is a significant impact; and
 - (ii) whether the impact is an unacceptable impact (see section 527F of the Act);
- (e) information on how the identification and assessment of the relevant impacts has been undertaken, including:
 - (i) details of any surveys undertaken, or any expert evidence, technical data or other information, that was used in the identification and assessment; and
 - (ii) any uncertainties in the outcomes of the surveys or other information (and any risks associated with these uncertainties);
- (f) an assessment of whether the relevant impacts have been identified and assessed consistently with the *National Environmental Standard (Matters of National Environmental Significance) 2026*, as in force from time to time;
- (g) a map of the area (the **affected area**) affected by the relevant impacts, including an updated map if the affected area has changed after the action was referred under section 68, 69 or 71 of the Act, that identifies the area affected by each relevant impact.

70 Item 4 of Schedule 4 (heading)

Omit “safeguards and mitigation”, substitute “**avoidance, mitigation and repair**”.

71 Item 4.01 of Schedule 4

Omit “Information given under paragraph 2.01(e)”, substitute “The draft environmental impact statement”.

72 Paragraph 4.01(a) of Schedule 4

Repeal the paragraph, substitute:

- (a) a description of the measures that will be implemented to avoid, mitigate or repair any relevant impacts of the action, including:
 - (i) any such measures that were identified after the proposed the action was referred under section 68, 69 or 71 of the Act; and
 - (ii) whether any such measures are proposed to be taken by a State or Territory, local government body, the designated proponent or any other person;

73 Paragraph 4.01(b) of Schedule 4

Omit “mitigation measures”, substitute “avoidance, mitigation or repair measures”.

74 Paragraph 4.01(c) of Schedule 4

Repeal the paragraph, substitute:

- (c) information about any known uncertainties about the likely effectiveness of the avoidance, mitigation or repair measures;
- (ca) an assessment of whether the relevant impacts of the action will be avoided, mitigated and repaired in a way that is consistent with the mitigation hierarchy in section 8 of the *National Environmental Standard (Matters of National Environmental Significance) 2026*, as in force from time to time;

75 Paragraph 4.01(d) of Schedule 4

Repeal the paragraph, substitute:

- (d) information on proposed monitoring, reporting and evaluation of the identified avoidance, mitigation and repair measures, including a framework for continuing management, mitigation and monitoring programs for the relevant impacts of the action;

76 Paragraph 4.01(e) of Schedule 4

Repeal the paragraph, substitute:

- (e) the name of the person or agency (if any) responsible for endorsing or approving each proposed avoidance, mitigation or repair measure or monitoring program;

77 Paragraph 4.01(f) of Schedule 4

Repeal the paragraph, substitute:

- (f) information on how the proposed avoidance, mitigation and repair measures were identified and assessed, including:
 - (i) details of any surveys undertaken, or any expert evidence, technical data or other information, that was used in the identification and assessment; and
 - (ii) any uncertainties in the outcomes of the surveys or other information (and any risks associated with these uncertainties).

78 At the end of item 4.01 of Schedule 4

Add:

Note: For paragraph (d), the framework may be provided in an environmental management plan or another form such as a document setting out the environmental outcomes that are intended to be achieved by the measures and how those outcomes will be achieved.

79 After item 4 of Schedule 4

Insert:

4A Compensation measures

4A.01 For each relevant impact of the action that is likely to be a residual significant impact, the following information:

- (a) details of the proposed measures to compensate for the likely damage from that impact;
- (b) an assessment of whether, if the proposed compensation measures were implemented, the approval of the taking of the action would:
 - (i) pass the net gain test in relation to the residual significant impact; and
 - (ii) be consistent with the *National Environmental Standard (Matters of National Environmental Significance) 2026*, as in force from time to time;
- (c) if the proposed compensation measure includes an offset activity (within the meaning of the *National Environmental Standard (Environmental Offsets) 2026*, as in force from time to time);
 - (i) the details and location of the offset activity; and
 - (ii) an assessment of whether the offset activity would be consistent with that Standard; and
 - (iii) information on proposed monitoring, reporting and evaluation measures relating to the offset activity.

4B Consistency with international agreements and other documents

- 4B.01 An assessment of whether the taking of the action consistently with any measures mentioned in paragraph 4.01(a) or 4A.01(a) would not be inconsistent with the following (to the extent relevant to the action):
- (a) a designated environmental instrument;
 - (b) a designated international agreement;
 - (c) a protection statement;
 - (d) a recovery plan;
 - (e) a threat abatement plan.

80 Item 6 of Schedule 4

Repeal the item.

81 Item 7 of Schedule 4

Repeal the item, substitute:

7 Information sources

- 7.01 For information given under item 3, 4, 4A or 4B, the following information:
- (a) the source of the information, including:
 - (i) any expert advice or other information used to support the information; and
 - (ii) whether the information was prepared by a person other than the designated proponent, and if so, the name and qualifications of that other person;
 - (b) how recent the information is;
 - (c) how the reliability of the information was tested;

- (d) what uncertainties (if any) are in the information;
- (e) whether these uncertainties could be reduced or removed by undertaking further assessment including further surveys, scoping, engagement or additional measures;
- (f) whether the person proposing to take the action considers the information provided is consistent with the *National Environmental Standard (Data and Information) 2026*, as in force from time to time.

82 Dictionary

Insert:

alternative bioregional restoration action: see subregulation 12D.08(4).

applicable maintenance period, in relation to a restoration action or bioregional restoration action, means the period that:

- (a) starts when the restoration action or bioregional restoration action has been delivered; and
- (b) ends as follows:
 - (i) unless subparagraph (ii) or (iii) applies—when the restoration action or bioregional restoration action becomes durable;
 - (ii) if the restoration action or bioregional restoration action becomes durable less than 25 years after delivery—25 years after delivery;
 - (iii) if the restoration action or bioregional restoration action does not become durable or becomes durable more than 100 years after delivery—100 years after delivery.

commences: a restoration action, or bioregional restoration action, that is a direct restoration action ***commences*** when management activities that make up or form part of the restoration action or bioregional restoration action start to be carried out.

conservation planning document means any of the following:

- (a) a threat abatement plan;
- (b) a protection statement;
- (c) a recovery plan;
- (d) an approved conservation advice;
- (e) a designated environmental instrument;
- (f) a bioregional guidance plan;
- (g) a bioregional plan;
- (h) a ruling under Part 19C of the Act;
- (i) a State or Territory conservation document (however described).

direct restoration action means a compensatory measure that directly protects, conserves, restores or recovers a matter protected by a provision of Part 3 of the Act.

83 Dictionary (paragraph (a) of the definition of *draft assessment documentation*)

Omit “public environment report under Division 5 of Part 8 of the Act or”.

84 Dictionary (subparagraph (b)(iv) of the definition of *draft assessment documentation*)

Repeal the subparagraph, substitute:

- (iv) any proposed measures to avoid, mitigate or repair any damage likely to be caused by a relevant impact of the proposed action that is a significant impact; and
- (v) if a relevant impact of the proposed action is, or is likely to be, a residual significant impact—any proposed measures to ensure the approval of the proposed action would pass the net gain test in relation to the residual significant impact; and
- (vi) the greenhouse gas emissions information for the proposed action; and
- (vii) whether (and, if so, how) the proposed action is consistent with any national environmental standard prescribed by these regulations for the purposes of subsection 136A(1) of the Act.

Note 1: For the purposes of subparagraph (b)(v), see the definitions of *residual significant impact* and *passes the net gain test* in sections 527J and 527K of the Act.

Note 2: For the purposes of subparagraph (b)(vi), see the definition of *greenhouse gas emissions information* in subsection 84A(2) of the Act.

85 Dictionary

Insert:

durable: the intended outcome or outcomes of a restoration action or bioregional restoration action are ***durable*** if they are capable of withstanding external pressures such that they can be reasonably expected to last a long time.

general bioregional restoration action: see subregulation 12D.08(2).

indirect restoration action means a compensatory measure that indirectly protects, conserves, restores or recovers a matter protected by a provision of Part 3 of the Act.

Note: For example:

- (a) scientific research or education on existing, new or emerging threats to the matter; or
- (b) a financial contribution towards such research or education.