

EPBC Act Reforms: Overview for Northern Territory stakeholders

Key Message

This information sheet outlines the key changes arising from the Australian Government's reforms to the *Environment Protection and Biodiversity Conservation Act 1999* and what they mean for Northern Territory (NT) project proposals.

The overall expectation is that most NT projects will continue to operate within a familiar assessment framework, while benefiting from clearer standards, greater transparency and reduced duplication between NT and Commonwealth assessment processes.

- Most NT projects are unlikely to face significant changes to their approval pathways. While the reforms introduce new decision-making requirements and establish the National Environmental Protection Agency (National EPA) as an independent decision-maker with stronger enforcement powers, the existing EPBC Act framework and protected matters have been largely retained.
- New decision-making settings to be introduced by 1 December 2026 include a requirement for new projects to be consistent with the National Environmental Standards (NES), avoid unacceptable impacts, which are now defined for each protected matter, pass the net gain test for any residual significant impacts, and report on greenhouse gas over a certain threshold.
- The NT's bilateral assessment arrangements with the Commonwealth are expected to continue, supporting efficient assessment pathways for many projects. The NT government is working with the Commonwealth to update the arrangements to align with the new decision-making settings.
- New statutory bodies and roles have been established, including the National EPA, the Restoration Contributions Holder and Head of Environment Information Australia (EIA).

Application of the EPBC Act in the Northern Territory

Environment Protection and Biodiversity Conservation Act

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is Australia's national environmental law. It establishes an environmental impact assessment and approval regime for proposed actions that are likely to have a **significant** impact on **matters of national environmental significance** (MNES) or other EPBC protected matters. Such actions are labelled as 'controlled actions' and require referral for assessment and approval by the Commonwealth Environment Minister or delegate.

There are nine matters of national environmental significance defined under the EPBC Act:

1. World Heritage areas
2. National Heritage places
3. Wetlands of international importance (listed under the Ramsar Convention)
4. Listed threatened species and ecological communities
5. Listed migratory species (protected under international agreements)
6. Commonwealth marine areas

7. The Great Barrier Reef Marine Park
8. Radiological Exposure actions (including uranium mines) (previously known as Nuclear actions)
9. Water resources (that relate to unconventional gas development and large coal mining development) [generally known as the “water trigger”].

The EPBC Act also protects the environment where actions are taken on Commonwealth land or impact upon Commonwealth land.

General information about the EPBC Act and the referral and assessment process can be found at <https://www.dcceew.gov.au/environment/epbc>.

NT Environment Protection Act

The *Environment Protection Act 2019* (EP Act) establishes an environmental impact assessment and approval regime for the NT that has similarities to the EPBC Act, although with a broader scope. Proponents are required to refer a proposed action that has the potential to significantly impact the environment, to the Northern Territory Environment Protection Authority (NT EPA). The environment is defined as all aspects of the surroundings of humans including physical, biological, economic, cultural and social aspects. If environmental impact assessment is required, the NT EPA makes a recommendation to the NT Environment Minister for the Minister to consider in deciding whether to grant an environmental approval. Further information on this process is available at <https://ntepa.nt.gov.au/your-business/environment-impact-assessment>.

NT Assessment Bilateral Agreement

The EPBC Act includes provision for bilateral agreements between the Australian and NT governments, where a proposed action may be assessed by the jurisdiction where the action is to be undertaken, using agreed processes. Since 2014, the NT has operated under various Assessment Bilateral Agreements that accredit the NT assessment processes. The Commonwealth Minister uses the NT's assessment report to inform their approval decision. Operations under the NT Assessment Bilateral Agreement are well established, cooperative and effective, removing the need for a separate assessment and reducing duplication between NT and Commonwealth processes.

The most recent Bilateral Agreement commenced in 2021 and is due for its five year review in 2026.

Bilateral agreements remain a key mechanism under the reformed EPBC Act for reducing duplication and enabling a single streamlined assessment process.

Environmental approvals for NT projects

Most NT development and land-use decisions are regulated under NT legal frameworks such as the EP Act, *Planning Act 1999*, *Water Act 1992* and *Pastoral Land Act 1992*. The EPBC Act is triggered when a project is likely to have a significant impact on a protected matter. For NT projects requiring EP Act approval since 2019, around 30% have also required an EPBC Act approval.

Since January 2015, a total of 52 projects in the NT have been referred under the EPBC Act. Of these, 12 were controlled actions requiring Commonwealth approval, with 12 others currently in process.

Projects requiring EPBC Act assessment have included mining and industrial developments, aquaculture developments, large agricultural developments and extensive land clearing for renewable energy.

EPBC Act Reforms

Background

The key driver for the current reforms was the Samuel Review (2020), which was a statutory independent review by Professor Graeme Samuel AC, supported by an expert panel and extensive stakeholder and public consultation.

The review found that the EPBC Act was ineffective and had not enabled the Commonwealth to effectively protect nationally important environmental matters. The EPBC Act was also found to be complex and cumbersome and resulted in duplication with State and Territory development approval processes, adding costs to business but often with little benefit to the environment.

The review considered the EPBC Act and its operation required fundamental reform and made 38 recommendations. These included legally enforceable NES as the centrepiece, along with streamlined approval processes, greater emphasis on strategic, bioregional planning and environmental restoration, stronger compliance and enforcement, and better data and information to inform decisions, with improved monitoring and reporting.

There were several attempts by successive Commonwealth Governments to implement some or all of the recommendations of the Samuel Review. A 'Nature Positive Plan' that committed to a suite of reforms was released in December 2022 and led to the establishment of the Nature Repair Market in 2023. A modified suite of reforms was developed in 2025 and ultimately a package of legislation was passed by Parliament on 28 November 2025, comprising seven Acts:

- The first Act substantively amended the EPBC Act.
- The next two Acts established the National EPA and a statutory Head of Environment Information Australia.
- A further 4 Acts established a charging framework for restoration charges to support offsets reform and provide for appropriate cost recovery arrangements for regulatory activities under the EPBC Act.

Overview of reforms

The stated aims of the reforms are to deliver stronger environmental protection and restoration, more efficient and robust project assessments, and greater accountability and transparency in decision making.

The key elements of the reforms include:

- A Ministerial power to make National Environmental Standards (NES) that provide clear, consistent and enforceable guidance for decision-makers (see below).
- Greater clarity about the appropriate use of offsets and a requirement for offsets to deliver a 'net gain' rather than 'no net loss'.
- New options for offsetting through a restoration contribution payment to the government.
- Improved compliance and enforcement powers, including higher penalties for serious breaches.
- A streamlined assessment pathway for eligible projects that meet NES and provide sufficient information up-front, with a statutory 30-day approval timeframe.
- Changes to make strategic assessments more flexible and easier to use.

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- Changes to make bioregional planning provisions more effective, notably a new kind of bioregional plan with regulatory zones, that include development zones where suitable projects can go ahead without needing separate approval if they comply with conditions in the plan.
- Changes to make bilateral agreements more flexible and easier to use. The Commonwealth Environment Minister can accredit environmental assessment and/or approval processes of states and territories, providing they are consistent with the new laws and NES.
- A clear, statutory definition for each MNES of what an “unacceptable impact” is to provide certainty about which projects cannot be approved.
- Establishment of the National Environmental Protection Agency (see below)
- Creation of the statutory position of the Head of Environment Information Australia (see below)
- A national interest proposal pathway where some actions can be exempt from approval requirements if the Commonwealth Environment Minister decides it is in the national interest.
- Requirements for all controlled action decisions over the threshold (of 100,000t CO₂e for Scope 1 or Scope 2) to report their greenhouse gas emissions.

During the passage of the reforms, amendments were negotiated in the Senate that include:

- Removal of the ‘continuous use’ exemption for land clearing on land with vegetation that has not been cleared in the past 15 years, or within 50 metres of a watercourse in the Great Barrier Reef catchment. This exemption only applied to activities that commenced prior to the EPBC Act.
- Sunsetting of the Regional Forest Agreement exemption by 1 July 2027 (so that after this date all forestry operations will be subject to the EPBC Act).
- Excluding fossil fuel projects from the streamlined assessment pathway, national interest proposals and bioregional planning provisions.
- Excluding projects assessed under the ‘water trigger’ from bilateral approval (although they can be assessed under a bilateral agreement).

National Environmental Standards (NES)

NES are new statutory instruments under the EPBC Act that are intended to provide clear, consistent, and enforceable guidelines for decision-makers to achieve better environmental outcomes. The Minister must be satisfied that a proposal is consistent with the standards for it to be approved. The NES apply to decisions under the reformed EPBC Act as prescribed by the regulations (for example, in making a new bilateral agreement, the Minister must be satisfied that the framework is consistent with the prescribed NES).

Four NES were made on 19 August 2026, and are available on the Federal Register of Legislation:

- [Matters of National Environmental Significance](#)
- [Environmental Offsets](#)
- [Community Engagement](#)
- [Data and Information](#).

The NES are legally enforceable and will be supported by guidance material to assist implementation, reducing discretion and increasing consistency in decision-making and certainty for proponents.

New statutory bodies

National Environmental Protection Agency

The National EPA commenced operation on 1 July 2026. The National EPA is responsible for environmental regulation, compliance and enforcement, and can assess projects and set approval conditions under delegated authority from the Commonwealth Environment Minister. The National EPA has access to stronger compliance powers. On a practical level, the National EPA is the body responsible for performing environmental assessments relating to the EPBC Act and will act as the new regulatory contact in the assessments and approval space.

Restoration Contributions Holder

Some proponents may interact with the Restoration Contributions Holder, a new independent statutory role established under the EPBC Act reforms. Where approved projects have residual environmental impacts, proponents may have the option of making a restoration contribution payment rather than delivering environmental offsets directly. These contributions will be administered and invested in environmental restoration actions by the Restoration Contributions Holder.

Environment Information Australia

The Head of Environment Information Australia (EIA) began as a statutory position on 1 July 2026. EIA brings together high-quality environmental data and information from across Australia. Proponents will be able to use EIA's data portal, mapping tools and environmental datasets to identify environmental values and constraints before project design is finalised. EIA is also responsible for independently reporting on Australia's state of the environment every 2 years and establishing and maintaining environmental economic accounts.

Transitional arrangements

The reform Bills received Royal Assent on 1 December 2025. Provisions to establish the NES commenced immediately on assent. Other elements of the reforms and associated transitional provisions commenced progressively throughout 2026, with the remaining reforms to commence by 1 December 2026.

For single projects, actions referred before commencement of the relevant part of the reforms will be assessed under the previous legislation, while actions referred after commencement of reforms will be assessed under the new legislation. Proponents wishing to be assessed under the new settings may withdraw an existing referral and submit a new referral after commencement.

Transition arrangements for complex areas such as strategic assessments and bilateral agreements have been developed and will be closely consulted on with impacted parties on a case-by-case basis.

Implications for the Northern Territory

Implications of the reforms for the NT should be considered in the context of the existing interplay between NT and Commonwealth legislation, and past experience of the effects of the EPBC Act on projects based in the Northern Territory.

Following the EPBC Act reforms, the same MNES remain, and there is no indication that the thresholds for what is considered a 'significant impact' on any protected matters have substantially changed. The number, or proportion of NT projects requiring an EPBC Act approval is unlikely to substantially increase because of the reforms. The reforms do not introduce a new offset obligation but do clarify the circumstances in which offsets are required and how they will be applied.

The Territory has modern environmental legislation which is largely consistent with the environmental approval regime of the EPBC Act, including under the reforms. The NT has a long-established (since 2014)

and well-functioning assessment bilateral with the Commonwealth with multiple recent projects in the NT using a bilateral assessment pathway. While it will be necessary to review and refresh the NT Bilateral Assessment Agreement, it is not anticipated that this will be problematic.

The Department of Lands, Planning and Environment (DLPE) will continue to monitor and engage with the implementation of the reforms and coordinate whole-of-government comment from the NT. Engagement with the Commonwealth will focus on ensuring the implementation of reforms are workable in the NT environment and development context, including for large, remote projects.

Overall, based on current information DLPE expects it will generally be 'business as usual' for NT projects that are likely to require assessment under the EPBC Act. The reforms are intended to provide greater clarity and certainty for proponents around the project planning and assessment information required, and clearer standards for environmental protection.

There may be opportunities for some projects to enter a streamlined assessment pathway; some proponents will see a benefit in immediate acquittal of offset obligations through payment of a restoration contribution; and there may be economic opportunities for landowners through the provision of offsets, including participation in the Nature Repair Market. In the longer term, bioregional planning could also facilitate approvals for some projects at a landscape scale, such as renewable energy or urban development precincts.

There will likely be some challenges for proponents and NT regulators to understand and meet new requirements arising from the EPBC Act reforms, especially initially as the new NES are being implemented and tested. The 'net gain' requirements in the reformed EPBC Act and the focus on restoration offsets may be challenging in the context of largely intact NT environments, and ongoing engagement with the Commonwealth to ensure this is recognised is important. Fossil fuel activities, including onshore gas development, have been excluded from many of the benefits of the reforms, but no additional regulatory hurdles have been imposed on them. It is notable that a 'climate trigger' was not introduced as an additional MNES.

The Commonwealth will retain responsibility for EPBC Act approval decisions for projects that trigger the expanded 'water trigger', including unconventional gas developments. However, this does not prevent the NT undertaking the environmental assessment under an assessment bilateral agreement, meaning a major NT gas project could still benefit from a single, coordinated assessment process rather than separate NT and Commonwealth assessments.

More information

- Department of Climate Change, Energy, the Environment and Water's articles on Environment protection reforms: <https://www.dcceew.gov.au/environment/epbc/epbc-act-reform>
- National EPA's 'Agriculture and the EPBC Act' guide: <https://www.nationalepa.gov.au/sites/default/files/documents/agriculture-epbc-act.pdf>

Frequently Asked Questions

Question	Answer
<i>Do the EPBC reforms increase matters of national environmental significance?</i>	No. The MNES remain essentially unchanged. The reforms primarily focus on improving how impacts on MNES are assessed and managed through clearer national standards, not on expanding what is protected.
<i>Do the EPBC reforms stop future development?</i>	No. Development can continue across all sectors, including mining and resources, energy and agriculture. The reforms are intended to support sustainable development, not prevent it, by providing clearer rules, earlier certainty and more streamlined approval pathways for projects that meet NES. Well-designed projects that address environmental impacts upfront should benefit from faster and more predictable approvals and facilitate ecologically sustainable development.
<i>Do the EPBC reforms apply to all land clearing in the NT?</i>	No. The EPBC Act only applies where land clearing has the potential to have a significant impact on a protected matter. Most land clearing in the NT continues to be regulated under Territory planning, pastoral and environmental legislation.
<i>What does the removal of exemption for certain land clearings mean in the NT?</i>	Section 43B of the EPBC Act contained a “continuation of use” provision which allowed activities which were lawfully in operation before 16 July 2000 (when the EPBC Act commenced) to be exempt from consideration under the EPBC Act. Actions authorised by state or territory laws before this date are also exempt (section 43A). In the NT context, recent (and likely future) land clearing proposals relate to previously uncleared native vegetation. These actions have never been exempt from the EPBC Act and the standard test applies – i.e. if the activity is likely to have a significant impact on a protected matter, it must be referred.
<i>Does the 15-year rule mean previously exempt land clearing will now require referral?</i>	The 15-year rule provides that where land clearing involves vegetation that has regrown for at least 15 years, the continuous use exemption does not apply. Importantly, this does not mean clearing is prohibited or will now require a referral. Any clearing of native vegetation will only require a referral if the clearing is likely to significantly impact a protected matter. In the NT, this usually only applies for large-scale clearing or clearing areas of high ecological value.
<i>Are assessments for water trigger excluded from the NT assessment bilateral?</i>	No. Projects that attract the water trigger are not excluded from NT-led assessment. However, only the Commonwealth Minister (or delegate) can make the EPBC Act approval. This is consistent with the current process.
<i>Do the reforms introduce new approval restrictions on fossil fuel projects?</i>	No. However, some reform benefits will not be available for fossil fuel developments, including the streamlined assessment pathway, national interest exemption and the ability to proceed within a bioregional plan development zone without project-specific approval.

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Question	Answer
<i>What is changing for environmental offsets under the EPBC reforms?</i>	Previously, environmental offsets were under a policy setting and are now a legislated requirement to compensate any residual significant impacts to protected matters. Historically, offsets were finalised and managed after the approval decision was made. Under the reforms, the Commonwealth decision-maker must be satisfied at the time of approval that appropriate measures of avoidance, mitigation and repair are applied and then any remaining residual significant impacts are compensated to meet the net gain test for each protected matter. The compensation for environmental offsets will need to meet the new approval tests and demonstrate they are consistent with the new Environmental Offsets Standard. This means offsets are part of the assessment process that need to be considered as part of the approval decision itself, rather than being resolved post-approval. Additionally, there are new options for the proponent to meet these new compensation obligations such as choosing to acquit their offset requirement by making a 'restoration contribution' payment. The NT's existing Environment Offsets Policy¹ mostly aligns with the Environmental Offsets Standard, meaning the NT is well positioned to operate under the new framework.
<i>Will environmental offsets be required for all projects under the EPBC Act.</i>	No. Offsets are only required if there is a residual significant impact on a protected matter. Well-designed projects that avoid, mitigate or repair impacts to the extent there is no residual impact will not require offsets.
<i>Will accreditation of NT assessment processes, including the bilateral agreement, continue?</i>	Yes. Accreditation and bilateral agreements remain a core part of the EPBC framework. The reforms do not remove or diminish bilateral agreements. Instead, they strengthen them by linking accreditation more clearly to the NES. This means NT assessment processes can continue to be relied on where they meet NES, helping to reduce duplication, streamline approvals and provide greater certainty for proponents.

¹ Northern Territory Biodiversity Offsets Policy < <https://environment.nt.gov.au/media/docs/biosecurity-offsets-policy/biodiversity-offsets-policy.pdf>>.

Definitions

Please note that the definitions provided in this factsheet are simplified, point-in-time definitions for general information purposes and do not represent the full legal definitions. For complete and current definitions, refer to the relevant legislation, including the *Environment Protection Act 2019* (NT), *Environment Protection Regulations 2020* and the *Environment Protection and Biodiversity Conservation Act 1999*.

Key Term	What it means	Why it matters
Matters of National Environmental Significance (MNES)	Nine specific matters protected under Part 3 Division 1 of the EPBC Act, including nationally listed threatened species and ecological communities, migratory species, and water resources affected by certain gas and coal projects. The EPBC Act applies only where a proposed action is likely to have a significant impact on one or more MNES or other protected matter such as Commonwealth land.	Determines whether EPBC Act applies at all.
National Environmental Standards (NES)	Statutory standards introduced under the EPBC Act reforms. They set clear benchmarks that must be met before an EPBC Act approval can be granted, including how impacts on protected matters are avoided, mitigated and repaired, how offsets must be designed and delivered, how consultation should be undertaken, and how data should be collected and managed.	Set legally enforceable benchmarks for environmental decision-making.
Bilateral Agreement (e.g. NT assessment bilateral)	Allows accredited state or territory assessment processes to be used for EPBC Act purposes. In the NT, this means the NT EPA leads the environmental assessment under the EP Act, and the Commonwealth relies on that assessment to make the EPBC Act approval decision, reducing duplication while maintaining a targeted national role.	Single assessment framework reduces duplication for NT projects.
Referral	The process of submitting a proposed action to the NT EPA and/or Commonwealth for a decision on whether the action requires assessment and approval. A referral is a screening step and does not approve or refuse a project.	Confirms Commonwealth involvement.
Significant Impact	An impact that is important or notable in its context, having regard to its scale, duration, intensity and the sensitivity of the protected matter affected (e.g. habitat destruction of a listed threatened species). The EPBC Act is triggered only where a significant impact is likely.	Triggers EPBC Act referral.

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Key Term	What it means	Why it matters
EPBC Act Decision	A formal decision made by the Commonwealth Environment Minister (or delegate such as the CEO of the National EPA) under the EPBC Act. This includes decisions on whether an action is a controlled action, how it is assessed, and whether it is approved and subject to conditions.	Allows a project to proceed or not proceed.
Controlled Action	A proposed action that is likely to have a significant impact on protected matters and therefore requires assessment and an EPBC Act approval decision. Not all referrals result in a controlled action determination.	Triggers EPBC Act assessment process.
Assessment	The process of evaluating the impacts of a controlled action on protected matters. In the NT, this is typically undertaken through NT-led assessment processes under the bilateral agreement and informs the Commonwealth's EPBC Act decision.	Informs approval decisions.
Approval	An EPBC Act decision allowing a controlled action to proceed, usually subject to legally enforceable conditions. These conditions may include impact management, monitoring, reporting and environmental offsets.	Required before works commence.
Streamlined Assessment Pathway	A new assessment pathway that requires the Minister to make an approval decision within 30 days. Available for project referrals with comprehensive information and that meet the NES. This pathway is not available for fossil fuel projects.	Simplifies process for low-risk actions, e.g. decision on referral information alone.
Water Trigger	Applies to large coal mines and unconventional gas projects where the action is likely to significantly impact water resources. It does not apply to all projects and does not create a universal EPBC Act trigger.	Larger scale onshore gas projects may invoke the water trigger.
15-Year Rule	Clearing of native vegetation involving regrowth older than 15 years may require referral where the clearing is likely to significantly impact protected matters. This does not create a new EPBC Act trigger nor does it prevent land clearing. It clarifies when regrowth clearing exemptions do not apply.	Continuous use exemption does not apply if clearing regrowth 15 years or older.
Continuous use exemption	An exemption under the EPBC Act that applies where land has been used continuously for the same purpose since prior to the Act coming into force, meaning certain ongoing activities may not require referral if they do not involve a new or intensified impact on protected matters.	Allows lawful continuation of land use before 2000 if no significant impact on MNES

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Key Term	What it means	Why it matters
Bioregional Planning	Landscape-scale plans made under the EPBC Act. Bioregional guidance plans include information and guidance to support project design and EPBC Act assessment. Bioregional plans establish regulatory zones for development with standard rules, prohibit certain actions in conservation zones and coordinate the delivery of restoration actions across a region.	Some actions in designated development zones may proceed without further EPBC Act approval.

Please email environment.policy@nt.gov.au if you have any questions or require further information about NT specific issues raised in this Information Sheet.