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18 July 2024

**Australian Academy of Science submission on the  
*Nature Positive (Environment Protection Australia) Bill 2024 [Provisions] and related bills***

The Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), the key Commonwealth legislation for safeguarding Australia's environment, is ineffective in protecting the environment. Significant systemic overhaul is urgently needed to protect Australia's unique species, ecosystems and biodiversity. This includes the introduction of binding National Environmental Standards, the establishment of Environment Protection Australia (EPA) and Environment Information Australia (EIA).

EPA and EIA are crucial elements of the Nature Positive reforms package, and with the right enhancements, could significantly bolster Australia's environmental legislation and data management.

Current environmental data systems do not provide decision-makers with the information they need—the result is inadequate responses to environmental challenges, insufficient environmental regulation, lack of capacity to address cumulative effects and considerable uncertainty regarding the impact of human activities on the environment.

The Academy recommends:

- adopting a stronger definition of 'Nature Positive' aligned with international definitions and Australia's own targets and ambitions.
- establishing EPA and EIA as statutory bodies with independent governance boards.
- legislating expert advisory committees with clear functions for both EPA and EIA.
- progressing stage 3 of the Nature Positive reforms package including National Environmental Standards before end of 2024.

This submission will cover both the Nature Positive (Environment Information Australia) Bill and the Nature Positive (Environment Protection Australia) Bill.

### Environment Information Australia Bill

*The definition of Nature Positive should be stronger and broader.*

The definition of 'Nature Positive' is critical in ensuring the delivery of better and much needed outcomes for the Australian environment. Section 6 of the Bill should be aligned with international definitions and be able to capture the targets and ambitions in Government strategies and pledges. The Academy proposes revising the definition of 'Nature Positive' to be stronger and broader by:

- setting a clear baseline in legislation. A baseline of 2020, drawing from the 2021 State of the Environment Report, is realistic, reasonable and aligns with international expectations. Any challenges arising due to gaps and deficiencies in data can be addressed through expert elicitation. Provisions can be made to review the baseline if scientific evidence suggests that a more ambitious baseline is necessary to achieve positive outcomes for Australia's environment.
- setting clear targets including timeframes. The definition should include targets to halt and reverse decline, and restoration, along with timeframes to achieve the targets. The targets should also be aligned with international definitions and frameworks.

### *Strengthen the independence of the Head of EIA and expand their functions*

The independence of the Head of EIA with respect to their functions to establish a monitoring framework, deliver State of the Environment reporting and establish environmental economic accounts, is welcome. The independence should be extended further to include the Head of EIA's other functions: providing public with

access to high-quality environmental information and data, and identifying and maintaining public environmental information assets.

The Head of EIA should also be tasked with developing and implementing a National Environmental Data Strategy. The strategy should include building an environmental data ecosystem where data needs and deficiencies are addressed, and stakeholders are brought together to share data, systems and knowledge for mutual benefit and to create a reliable, accessible, and holistic data ecosystem.

The Head of EIA should be tasked with independently implementing the National Environmental Standard for Data and Information, ensuring that national data sources meet agreed quality standards and are fully disclosed. The Head of EIA should also be responsible for developing formal systems that address uncertainty and data deficiencies in decision-making and enable cumulative impacts on Matters of National Environmental Significance to be quantified. The [Academy's submission to DCCEEW's Nature Positive consultations](#) outlines the measures needed to ensure environmental decisions are based on high-quality data.

#### *Independence of the EIA*

The independence and reputation of EIA can be enhanced by establishing it as a statutory body with an independent governing board, with adequate separation between the Head of EIA and the Commonwealth. Having an independent board with suitable qualifications, including scientific experts, will also improve the accountability and integrity of EIA.

#### *Legislate advisory mechanisms*

Currently there are no provisions for the Head of EIA to establish advisory mechanisms to assist them in their decision making. The Head of EIA should be required to seek advice from an Expert Advisory Committee, and the advice provided by the Committee should be made accessible to the public. The functions of the Committee should be clear and legislated, similar to the establishment of the Principal Committees in Section 35 of the *National Health and Medical Research Council Act 1992*.

#### *Environmental data used for decision making should be transparent and accessible*

All environmental data — including the data on which environmental impact assessments are based — should be transparent, well-documented, and consistent in format. Data, including models, codes and assumptions used to inform decisions should be publicly available in accordance with appropriate data principles, such as FAIR, TRUST, and CARE, and frameworks such as the Australian Government Framework for Indigenous Data Governance. Data should be available and transparent to allow for long-term use and easy reuse for future decision-making.

Availability of datasets is also critical to understand and track whether actual environmental impacts differ from predicted impacts to address any gaps and deficiencies in the underlying data, models, and assumptions that inform predictions. These datasets will become valuable resources for research purposes and evidence-informed policy making. Due consideration should also be given to determine how data sharing can be appropriately incentivised and encouraged, particularly for non-Commonwealth stakeholders.

#### *Environment Protection Australia Bill*

A robust, independent EPA is needed to restore integrity and trust in the system. The Academy makes the following recommendations to enhance the Bill to ensure that EPA will deliver positive outcomes effectively and efficiently.

#### *Adopt a stronger governance model*

The Academy welcomes the establishment of EPA as a statutory Commonwealth entity, but recommends a stronger governance model to ensure independence, accountability and integrity of EPA. An independent board for example, would create an additional layer of separation that will help reduce the possibility of political interference, and to ensure that EPA is working towards both short-term and long-term goals.

### *Legislate advisory mechanisms*

The Bill allows the CEO of EPA to establish an advisory group to receive advice or assistance in relation to the performance of their functions and the exercise of their powers. The CEO is required to consider the advice but is not bound by it, and the CEO may publish the advice if the CEO considers it appropriate to do so.

The Academy believes that this is inconsistent with good governance, transparency and accountability. The Academy recommends adopting an advisory structure similar to the NHMRC Principal Committees (as noted above under the Environment Information Australia advisory mechanisms), where the advisory group has clear, legislated functions. The CEO should be required to consider the advice, and the Bill should require the advice to be publicly available or made accessible in accordance with appropriate governance principles, except in circumstances where the advisory group deems the disclosure of the advice to be detrimental to the environment. This would ensure transparency and accountability of decision making, and to restore trust and integrity in the system.

### *Additional recommendations*

#### *National Environmental Standards for Data and Information would be a better alternative to changes to the 'stop the clock' provisions*

The Academy is concerned about the impact the proposed 'stop clock' amendments would have on evidence-informed decision making, particularly when current environmental data systems do not adequately provide decision-makers with the information they need. This can be addressed by urgently implementing National Environmental Standards for Data and Information that set minimum quality, use, reporting, storage, accessibility, and transparency standards for data used for decision making. Implementing the National Environmental Standard for Data and Information would reduce the need for decision makers to seek further data and information in their decision-making processes.

#### *Cumulative impacts should be addressed, and net positive outcomes should be considered*

The suite of bills should seek to address cumulative impacts and achieve net positive outcomes. Cumulative impacts are the result of multiple past, present and future pressures from various activities that interact with each other. The Samuel Review argued that cumulative impacts on Matters of National Environmental Significance are not systematically or holistically considered, contributing to environmental decline. Until the remainder of the Nature Positive reforms package is implemented, the stage 2 Nature Positive bills should include measures to address cumulative impacts, and achieve clear, net positive outcomes in decision making.

#### *Stage 3 of the Nature Positive plan should be progressed before end of 2024*

Stage 3 of the Nature Positive plan should be progressed before the end of 2024. The Nature Positive legislative suite, including clear, unambiguous, measurable and enforceable National Environmental Standards, is necessary for effective conservation and restoration of biodiversity, and to ensure the sustainable management of natural resources for future generations.

To discuss or clarify any aspect of this submission, please contact Mr Chris Anderson, Director Science Policy at