

# Australia's new Nature Positive laws: Webinar 19 April 2024

Department of Climate Change, Energy, the Environment and Water

<Webinar commencement>

## Slide 1: Welcome

00:00:03 --> 00:00:28

**Greg Manning:** Hello, welcome and thank you for taking the time to join us today to discuss Australia's new Nature Positive laws. My name is Greg Manning and I'm joining you today from Ngunnawal country in Canberra. My colleagues and I are from the Department of Climate Change, Energy, the Environment and Water. Please note we are recording this webinar today and it will be published on the department's website in the coming days.

## Slide 2: Acknowledgement of Country

00:00:30 --> 00:00:48

**Greg Manning:** I would like to start today's session by acknowledging the Traditional Owners of the country throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their elders past and present. I would also like to extend that acknowledgement to any Aboriginal and Torres Strait Islander peoples who are attending the session today.

## Slide 3: Agenda for today's webinar

00:00:49 --> 00:01:30

**Greg Manning:** We're pleased to present to you today the Australian Government's next stage of Nature Positive law reform. To begin with, I'm going to play a short message from the Honourable Tanya Plibersek, MP, Minister for the Environment and Water. This will be followed by an overview of the government's Nature Positive Plan, and an update on the staging and progress of the reforms.

After the presentation we will have a question-and-answer session with our panel. You can submit your questions for that at any time using the Q&A function.

The questions will go directly to our team, who will feed them through to me to put to our panel.

I will now hand over to the presentation from our Minister.

## Message from the Hon. Tanya Plibersek, MP, Minister for the Environment and Water

00:01:31 --> 00:03:37

**Minister Plibersek:** Hello everybody, it's Tanya Plibersek here and I'm coming to you from the lands of the Wreck Bay Aboriginal community, and of course I pay my respects to elders here past and present, and I particularly acknowledge any First Nations people that are taking part in today's event. I'm so sorry I can't be with you there in Canberra, but I wanted to let you know a bit about the government's Nature Positive plan.

This week I announced the second stage of our historic reforms. Australia will get its first national independent Environment Protection Agency with strong new powers and penalties to better protect nature. There will be more accountability and transparency with the new body called Environment Information Australia (EIA), too. EIA will give businesses easier access to the latest environmental data, it will release the State of the Environment reports more frequently, and report on progress on how we're going against our national environmental goals. There will also be faster environmental approval decisions on projects thanks to \$100 million investment including on renewables and critical minerals.

These reforms are a win for the environment and a win for business. We are delivering stronger protections for our land, our waterways, our plants and animals – at the same time faster, clearer decisions for business. In coming weeks we'll be introducing laws to deliver these stage 2 changes. When I first announced the Nature Positive Plan, I said it would take a bit of cooperation, a bit of compromise and some common sense to deliver it, and that's exactly how we're approaching the roll out. The federal government will fully deliver the third stage of environmental law reform by continuing to consult closely with environment groups, business, states and territories, and you here today on further updates to national environment laws. Please stay engaged – whether it's surfing or boating or fishing or bushwalking or camping, Australians love spending time in nature and the federal government is doing more than ever before to protect more of what's precious, to fix more of what's been damaged and to care for the places that Australians love.

### Slide 4: Nature Positive Plan

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**Department spokesperson:** On the 8th of December 2022, The Minister for the Environment and Water, the Hon. Tanya Plibersek MP, released the Nature Positive Plan: better for the environment, better for business. The Nature Positive Plan sets out the Australian Government's commitments to

strengthen our environmental laws and create a framework for a Nature Positive Australia, where we protect and repair nature. This is the largest change to Australia's national environmental laws since the Environment Protection and Biodiversity Conservation Act, known as the EPBC Act, commenced over 20 years ago in the year 2000. The proposed reforms will ensure our national environmental laws are outcomes-focused and nature positive. Regulatory processes will be simplified and streamlined to deliver better and faster decisions while safeguarding Australia's unique environment. Since the plan was released, we have been working to deliver a package of new environmental laws for approval by the Australian Parliament.

## Slide 5: Overview of Nature Positive Reform staging

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**Department spokesperson:** Last year, the government established the world's first Nature Repair market and expanded the water trigger to now include all unconventional gas. This legislation was the first stage of the government's reforms. Stage 2 will see the establishment of Environment Protection Australia and Environment Information Australia. These institutions are needed to improve compliance and restore trust and transparency. Getting these institutions set up now will set the foundations for the next stage of reform. The government will continue to work with stakeholders to develop new Commonwealth environmental laws, as outlined in the rest of the Nature Positive Plan. This third stage of reforms will include establishing national environmental standards, overhauling the environment approvals pathway, and improving conservation planning.

## Slide 6: New funding commitment

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**Department spokesperson:** The government has announced a nearly \$100 million investment to speed up environmental approvals. This funding will support: more staff to assess proposals; threatened species research, and; working with states and territories in seven priority regions. This funding is in addition to the \$121 million provided in last year's budget to set up Environment Protection Australia, and \$51.5 million to set up Environment information Australia. This amounts to nearly \$270 million dollars to deliver this important stage of reform.

## Slide 7: Environment Protection Australia

00:06:52 --> 00:08:26

**Department spokesperson:** The minister will introduce legislation to establish Environment Protection Australia or EPA, a new independent national agency to protect the environment. EPA

will enforce national environmental laws. It will operate with greater independence and transparency to restore public confidence in Australia's environmental protection system. EPA will be a separate statutory Commonwealth entity, with its own budget, led by a Chief Executive Officer. The CEO of EPA will be supported by an advisory group to ensure they have access to the technical expertise needed to support them in their role. The Minister for the Environment will be able to issue EPA with a public statement of expectations but will not otherwise be able to direct the agency. The Minister for the Environment will retain responsibility for direction setting and Australian Government policy under national environmental law, including the determination of nationally protected matters. EPA's role will solely focus on administering and enforcing regulation.

## Slide 8: Responsibilities of EPA

00:08:26 --> 00:10:22

**Department spokesperson:** EPA will administer Australia's existing environment protection laws to better protect nature and make faster, better decisions. This includes making environmental assessments, deciding project approvals and conditions as a delegate for the minister, issuing permits and licenses, educating industry, business, and the community to help them navigate our environmental laws, speeding up development decisions (including project assessments), and enforcing the law through tough new monitoring and enforcement powers.

EPA will be responsible for regulatory activities under Australia's environment law, including in relation to project assessments, recycling, hazardous waste, wildlife trafficking, sea dumping, ozone protection, underwater cultural heritage, and air quality. EPA will commence within the department immediately following passage of the legislation. It is proposed that EPA will become an independent statutory authority from July 2025. From this time, compliance and enforcement and permitting functions, for example those under the Hazardous Waste Act, will be directly vested in the CEO of EPA. The EPA will continue to undertake other functions as a delegate of the minister, for example, deciding project approvals.

## Slide 9: New regulatory powers

00:10:23 --> 00:12:25

**Department spokesperson:** There will be new strengthened compliance and enforcement powers and increased penalties upon passage of the proposed amendments to the EPBC Act. This includes introducing a new power known as environment protection orders. These can be used in urgent circumstances as a stop work order where work being carried out is in contravention or likely contravention of the Act and causes or creates an imminent risk of serious harm to the environment.

Existing environmental audit powers will be expanded, allowing operations to be audited without giving notice, including whether they have complied with their obligations and undertakings. There will also be increases to civil penalties for the most serious contraventions and the introduction of a civil penalty formula that can be applied by the courts in a manner proportionate to the scale of the offence. These new penalties are based on financial crime penalties such as insider trading and market manipulation.

This could result in penalties of up to \$782 million for body corporates in cases of the most serious breaches. There will also be changes to the 'stop the clock' provisions. This means, when there is a request for more information, a project proponent will be able to not agree to extend a time frame (or 'stop the clock'). If the project proponent does not agree to extend a time frame, the decision maker will make a decision based on the information they have before them. This could result in faster yeses and quicker noes.

## **Slide 10: Environment Information Australia**

00:12:26 --> 00:14:28

**Department spokesperson:** We are also introducing new laws to establish a statutory Head of Environment Information Australia within the department. The Head will have legislated responsibilities to provide the Minister for the Environment, the CEO of EPA, and the public with high quality data and information. Lifting the standard of data and making it more readily available will help to improve evidence and transparency of decision making. Collaboration will be key. The Head will work in partnership with state and territory governments, industry, academic institutions and other stakeholders to improve the environmental information supply chain. The Head will also be required to prepare regular independent reports. State of the Environment Reports delivered every two years will incorporate science and indigenous knowledge. The Head will provide an analysis of trends in the environment, and information about the progress of national environmental goals committed to by the Minister for the Environment. The Head will also set a baseline for, and report on Australia's progress towards achieving nature positive. Improved data and reporting will help decision makers to balance environmental and economic considerations. This will mean that governments and business can better understand the impact of decisions and position us more effectively to respond to emerging trends.

## Slide 11: Next Steps

00:14:29--> 00:15:30

**Department spokesperson:** Laws to deliver the second stage of the Nature Positive reforms will be introduced into Parliament in the coming weeks. This will include establishment of two key new institutions, Environment Protection Australia and Environment Information Australia. The Australian Government will continue to work with environment groups, business, states and territories, and others to deliver the third stage of environment law reform, as outlined in the government's Nature Positive Plan. And we'll keep acting on circular economy, threatened species, invasives, and thirty by thirty. A full and comprehensive exposure draft of Stage 3 reforms will be released for public consultation prior to their introduction to Parliament.

## Slide 12: Questions and answers

00:15:31 --> 00:56:25

**Greg Manning:** Okay, we will now move into the question and answer element of the session. You can use the Q&A function to ask questions, noting as I mentioned before that the questions will go directly to our team who will then feed them through to me. We are conscious there are a lot of people online and we will try and get to as many of the questions that you have as we can. For clarity, our team may also group up questions where they cover similar issues, and this will help us to get through as many topics as we can today. If we do not address your question, you are welcome to submit comments to the team via the Have Your Say on the department's website.

Our panel today consists of three members. We have on my left here: James Tregurtha from our Nature Positive Taskforce. We also have Jane Coram from Environment Information Australia, and at the end of the table we have Andrew McNee from our environmental approvals and compliance area.

As mentioned, I'll be reading out the questions as they come through, the first of which does appear to have done so and it is for Andrew. Andrew, can you please provide more information on what the \$100 million of funding that has been announced will be used for? Thanks Andrew.

**Andrew McNee:** Thank you and thank you for the question. The \$100 million is for three particular components. The first of that is material to assist the assessment process, so to allow for better and faster decisions by supporting new information, particularly around threatened species, that actually will really facilitate fast consideration of the process. It will also be considerable support for more planning, so that is to support work with the states and territories that allows a more detailed sense of where particular things can proceed and where they shouldn't proceed. So, a go- and no-go area.

The final area is to support the assessment area with additional staff who can help and work with business to help them understand how to better comply with the EPBC Act and to work through particular proposals in a more concerted way, particularly in areas where there are complex projects around renewable energy or critical minerals. So that's very much the work that \$100 million is going to, Greg.

**Greg Manning:** Terrific. Thanks very much, Andrew. Our next question is for you James, and it's in relation to the stages. So, the question is 'how independent will the EPA be as we move through and establish it under these reforms?'

**James Tregurtha:** Thanks Greg, I appreciate the question. So, it's important to note that as the Minister has said, the introduction of this legislation, so the proposal that's being put forward in the legislation, will seek to set up the EPA as an independent statutory authority from July 2025, as we heard in the presentation. What that will mean is that the CEO of the EPA at that point becomes an independent statutory officer running their own agency. When that happens, a number of different powers will be vested into the CEO of the EPA, rather than the minister.

So as we heard in the video, that means that whilst the minister will be able to issue a statement of expectations around these powers, the minister will not be able to direct the CEO of the EPA in fulfilling these responsibilities. Some examples of this are compliance and enforcement activities under all seven of the different bits of legislation that were mentioned in the presentation, those compliance and enforcement powers will all be vested in the CEO of the EPA. Likewise, the permitting and licensing functions across each of those Acts, so the example we heard on the video was hazardous waste permitting but some other examples of that [which] viewers of the seminar might be interested in are; permitting in relation to waste exports, permitting in relation to wildlife permits as well, will again be vested in the CEO of the EPA. So not subject to direction, which makes it a substantially more independent function than currently operates. Finally, in relation to, I know many of the people watching will be interested in assessment and approval powers - so right now in the current setup under the EPBC Act around about 98% of decisions made under the assessments and approvals framework in the EPBC Act are undertaken by the department under delegation to the minister. On the introduction of the EPA those powers will continue and indeed, when the EPA is set up as an independent statutory authority, they will continue to operate in that way, making both assessment and approval decisions under that delegated power in the same way that it is undertaken now. What this means, of course, is that for those decisions, the minister remains able to, if you like, 'call in' some of those decisions to make. In those circumstances where the minister makes those decisions, they would do so on the basis of advice and reporting provided by the independent EPA.

And also, as we move forward into Stage 3 of the reforms, that's where the changes that some viewers may have heard about in relation to the 'call in' power come into play that potentially provide further independence as well. So that's a snapshot of how the independence of each function works in relation to the proposed new EPA.

**Greg Manning:** Great, thanks James for working through all of that. The next question has come through for Jane, from the prospective Environment Information Australia. Obviously, this is a key part of the reforms – the question Jane is 'how will Environment Information Australia improve data availability and accessibility through what's being proposed?'

**Jane Coram:** Thanks Greg. Well, Environment Information Australia will provide a public data portal that will bring together and make available data from a range of sources, including from state and territory regulators and from project proponents. Over time, that data source will improve, so that progressively as project proponents provide information and data to regulatory processes, and through the data and information sharing agreements with our partner state and territory organizations, we will progressively be able to build that information base, and make increasingly more and better information available to the public, to the minister and to the EPA.

**Greg Manning:** That's terrific. Thanks very much, Jane. The next question, James, we're coming back to you, with quite a technical question in some regards. But the question is in relation to a particular term we use – the 'stop the clock' provisions, particularly 'what is it and how is it changing?'

**James Tregurtha:** Yeah, thanks for the question, Greg and whoever sent that one in. So maybe I'll start with what is a 'stop the clock' provision?

So, under the current EPBC Act, in relation to the project assessment and approval process there are 3 opportunities where the department can, what we call "stop the clock" in order to seek further information.

Once, during the referral stage of a project, a second time/opportunity during the assessment phase of a project, and finally during the approval phase of a project. What that means in sort of lay terms if you like, is that the department is able to say, 'we think we need more information in order to progress the material that we have in front of us' and in order to do so, because each of those phases of reform have the capacity to 'run down a clock' if you like, a statutory timeframe within which those decisions need to be made, because the obligation at the point of seeking further information passes from the department to whoever it is that the department is seeking further information from, there's a provision in our Act to 'stop the clock'.



There has been some suggestion that those provisions are used to expand the time available for assessments. So as part of this reform, the government is proposing changing those provisions to include a further component in regard to the use of 'stop clock' provisions. Simply, the way it will operate is that, should the bill be passed and the changes made, the change to the EPBC Act would be that in coming to a determination that further information is desirable and seeking to stop the clock, prior to doing so the department or the EPA – following the introduction of the EPA – would first be obliged to notify a project proponent that they were proposing to do so, and provide the project proponent with a period of time – we think in the order of five days – to respond to the department and not agree to the stopping of the clock.

In those circumstances, the assessment clock will continue to run while whatever action is required – so, 2 different scenarios – the department may still choose to go and seek further information, equally, the department, – and we think in most cases – would proceed with making the assessment step on the basis of the current information that they have. Of course, that would all be in consultation with the project proponent.

**Greg Manning:** Yeah, terrific thanks James – a good run-through of the 'stop the clock' provisions and the next question appears to be one back for you, Jane, on Environment Information Australia and specifically in relation to some of the powers proposed for that institution, 'will Environment Information Australia be able to compel organisations to provide information?'

**Jane Coram:** No, Environment Information Australia won't be able to compel organisations to provide information. The head of the organisation, Head of Environment Information Australia, will ask organisations to voluntarily provide information, and that information will then be used to support the head of EIA's reporting responsibilities – like the State of Environment Reporting, Environment Economic Account reporting, and reporting on progress towards Nature Positive. But no compulsion.

**Greg Manning:** No compulsion, yeah, great. Thanks for clarifying that, Jane. Alright, Andrew, I'm coming back over to you next. One of the issues that Minister Plibersek mentioned in her announcement was in relation to an offsets audit. The question is 'what were the findings of that and what is your area proposing to do in relation to the findings of that audit, next?'

**Andrew McNee:** Thanks very much and thanks for the question and that's correct. In mid-2023, Minister Plibersek asked the department to carry out an audit of offsets in project approvals under the EPBC Act. This is particularly important, because offsets are often part of the conditions of approval, and there are many projects that have offsets, so ensuring that they're working as they're

intended to is a critical part of ensuring that environmental outcomes are met, and that people are meeting their requirements. We audited 222 projects, and what we found was 32 of those projects were potentially not compliant. So, not compliant with their conditions of approval. They were not compliant in different kinds of ways, sometimes it was administrative, other times more significant. So, for example, not lodging documents that were required around offset management plans or where the actual requirements of an offset management plan were not met, or in particular cases not retiring a biodiversity offset, for example, in a project in New South Wales. So, there were a variety of different kinds of non-compliance we needed to further investigate.

In terms of how the department then approaches that, we have a number of different tools that are proportionate to the significance of the non-compliance. So, for example, we start off with looking at infringement notices which allow us to apply a fine for non-compliance. We can also provide a direction to amend a condition so that we can bring a project back into compliance, and again, that's a very important measure because we do want the outcome for the environment at that point. For more serious non-compliance, when they're detected, then there are options to pursue through the courts, civil and criminal activities. So each of the projects that we identified as potentially non-compliant are in the process of going through that process.

Currently, 13 of those we've actually taken a compliance action, predominantly in the infringement notice area or directed variations, the remaining 19 we're continuing to work through to understand what the best kind of compliance action is for those particular projects.

This has been a very valuable exercise for us because it's given us a very good understanding of where potential non-compliance is arising around offsets, where in particular sectors there might be issues that need to be looked at particularly, and we've been able to use that information to feed into the offset audit program going forward, to use it to prioritise projects. So, we're looking very closely at projects that are coming towards the end of their regulatory life. We're looking at projects where there are particular critical species that are subject to offset requirements. So, we've been able to bring in all of those results, and I think, fine tune how that offset audit will continue into the future. The tools that are proposed in the new bill, particularly around auditing, I think will also give us some more important ways to take forward the results of the offset audit and we're looking forward to continuing to look actively at other offset projects.

**Greg Manning:** Right. Thanks very much Andrew for taking us through that. It seems that there's many questions coming through, James. So, this next question is coming back your way in relation to the third stage of the reform. So focused, on Stage 2 at the moment, so, I guess to get into that, 'what is the timing and the process for the third stage of the reforms, including the national

environmental standards in particular, which have been a strong focus as well as updates to the approval processes that have been talked about?' Thanks.

**James Tregurtha:** Thanks Greg, and thanks for the question. So, in relation to the third stage of reforms, I think it's important to note that we've already been undertaking substantial consultation with key stakeholders and key groups as well as 2 webinars that we ran last year on the Nature Positive Plan more broadly. Those consultation sessions have been undertaken in the second half of 2023, but also then into 2024. What, as the minister has said in her announcement, what we've found through that is there are a range of different views that need to be worked through in relation to the broader aspects of the reform – and as we heard on the video again – in regard to elements like changes to assessments and approval processes, conservation planning, and how those things fit together in potentially a new architecture for environmental assessments and approvals.

The minister has said that it's important to take the time to get these settings right and that consultations will continue as we work through the issues that have been raised, substantial issues that require significant work and thinking as we work through those with stakeholders, with a view to ensuring that we get the best possible package of reforms to put forward as part of stage, well, as Stage 3 of the reforms, as the minister has announced. When we have done that, the minister has also indicated that at that point in time a full comprehensive exposure draft of a new Nature Positive Act will be released for public consultation.

In terms of timing, we are working as fast as we can and it is still our intention to release that exposure draft as soon as possible but, as the minister has noted, it'll be released when it's ready following those consultation processes because of the importance of this. Clearly, protecting Australia's environment and really properly understanding those protections in the context of society and the economy more broadly is very important and it's really important that we get this right.

This is fundamental change to a piece of legislation that's now been in place for over 20 years, and it is important to get it right. So as the minister has said, as soon as that is ready – and we are working as assiduously as we can to get that done – in as quick a manner as possible whilst being careful to ensure that we take all those views into account. When it's ready and as we said, a public – as the minister said, a public exposure draft will be put out for a round of public comment.

**Greg Manning:** Great, thank James. And our next question is going back to Jane from an Environment Information Australia perspective and particularly to one of the functions that Environment Information Australia will be charged with. Jane, what are the changes going to be to the State of the Environment reporting under the new arrangements?

**Jane Coram:** Thank you. So, the preparation and publication of the State of the Environment report will be a statutory function of the Head of Environment Information Australia. That reporting will be done every 2 years instead of every 5 years from 2026. Part of the legislative requirement will be for these reports to combine scientific and indigenous knowledge, and also to consult with independent experts. As well as analyse reporting on and analysing environmental trends, an important part of the legislative requirements will be to report on the progress of the government's national environmental goals. In the legislation, there will also be a requirement for the government to table a response in the Parliament within 6 months of receiving the Head of Environment Information Australia's State of the Environment report and that [response] will be required to include commitments about national environmental goals.

**Greg Manning:** Right. Thanks very much, Jane. And the next question, I think we're going back to our topic we touched on earlier in relation to the independence of the EPA, James, this question is delving into the Minister's role in relation to that and specifically, will the Minister still be able to call in approval decisions after the EPA has been established?

**James Tregurtha:** Yeah. Thanks Greg. So, it's probably worth starting from when we talk about 'calling in'. So that's a reference to the Nature Positive Plan where the Nature Positive Plan said that under the new settings that the government has committed to, there would still be the capacity for the minister to 'call in' approval decisions from the EPA under certain circumstances. That's still absolutely our intention to continue to work on as part of Stage 3. So, the 'call in' power is still absolutely a component that we will be taking forward as part of Stage 3. Importantly, recognising that there are, as I've just mentioned, there are more consultations to come around that component of the reforms. In relation to Stage 2, it's important to recognise that the assessment and approval settings that will be in place, in relation to initially the standing up of an EPA within the department and then in July 2025 the creation of a statutorily independent EPA, remained that the assessment and approval powers will be exercised by the EPA. But it will still be possible for the minister to undertake and make an approval decision at her discretion. The mechanism through which that happens, though is because the minister has delegated those functions to the EPA, the minister is then able to, of course, take back [or 'call in'] one of those decisions in order to make it. That's exactly the case as happens with environmental assessment and approval decision making now, and it is broadly analogous to the operation of a 'call in' power as is proposed in the Nature Positive Plan in the future, whereby the EPA is the decision maker but the minister is able to 'call in' a project should they wish to undertake that decision making process themselves.

**Greg Manning:** Yeah, terrific. I hope that provides some clarity for that question asker. Andrew, this next question is coming back your way in relation to compliance and enforcement, which as the question notes, does keep coming up significantly through all of this. The question is, is it just the stronger penalties that we're talking about here or are there other new powers in addition to those that will form part of the compliance and enforcement arrangements going forwards?

**Andrew McNee:** Thanks, Greg, that's an excellent question and I thought I might just talk a little bit about how we undertake our compliance. So, we are really working to become a modern, risk-based intelligence-led compliance unit, that is not just about the penalties. Obviously, the powers are the critical kind of tools that we have, and if people are looking for that kind of suite of tools and how we use them, then it's the department's compliance policy that sets out how we will use those particular tools.

So, one of the first things that we'll do on passing of this legislation is look at how the new powers that relate to environment protection orders and the auditing functions can be incorporated into our compliance approach and they're both important tools. So environment protection orders will provide a capacity for immediate action by the head of the EPA to take, you know, where there's a likely contravention or an actual contravention of the legislation and a risk of serious damage to the environment, then that is a power that can be taken immediately by the head of the Agency, so it's important. And we'll be setting out in the compliance policy the approach to that. The auditing powers as I touched on in a previous response, they're also critical. At the moment we have quite limited powers to request particular documents to test compliance or to go and visit a particular site. So those powers, again, we will set out in our compliance policy. It's not just about powers and penalties though – the compliance area in the department has been significantly upgraded recently, so the work for example, that's been done around the offsets audit, that unit has been specifically set up for that purpose.

So, we have a new function within the department that can now look very closely and audit these projects, and that's very much part of the additional resourcing that we received as part of the \$121 million to establish to establish the EPA and to build stronger enforcement capacity.

The other thing that's important in terms of compliance enforcement is that ability to really set priorities around what our areas of focus are going to be, I think Mr. Tregurtha flagged earlier, or the presentation might have, that the minister will be able to identify through a statement of expectations, potential areas of priority. Well, we can use those priorities, incorporate them into our kind of annual planning cycle, and have a very focused view on the types of compliance outcomes

we're getting, and through doing that, ensuring that we're achieving the environmental protection outcomes that the Act is seeking.

**Greg Manning:** Thank you. Alright, thanks Andrew. Good. I think this next question I will direct to Jane in the first instance, but the panel might like to pick up on it in general. It would appear it really goes to the interaction between two of the two key institutions we're talking about. So, the question is how will Environment Information Australia and [Environment Protection Australia] actually interact between each other? So, Jane, I'll go to you first.

**Jane Coram:** OK, thank you. Part of Environment Information Australia's role will be to improve on the national environmental data supply chain, and as part of that national environmental data supply chain, EIA will receive data from a range of sources. Now the EPA will be able to access that data and information for their approvals process. Over time, the richness and quality of that environmental data set will improve, and we will be able to hold the data that is generated as part of the approvals process, including the range of scientific information that is collected. So again, increasingly, the information base that the EPA can draw upon will be strengthened over time.

**Greg Manning:** Right. Thanks.

**James Tregurtha:** So, I might jump in on that one too, Greg, if I can. So, it's important to recognise that even when the Commonwealth Environment Protection Australia becomes a statutory entity, as Jane was just saying, they will still retain all of the access that they have to environmental data. So, one of the key and fundamental points that were set in the Nature Positive Plan was the government's recognition of the importance of information and data to be able to effectively deliver environmental regulation alongside environmental programs and other environmental policy outcomes. Now, as Jane talked about, it's really important that Environment Information Australia is able to realise those improvements, but it's also, and we recognise this, equally important that the regulatory components of environmental protection are also able to access the best quality and the most up-to-date data that's possible. It's through that mechanism that you get the best possible regulatory outcomes, and as Andrew was talking about, that information also goes towards informing our compliance and enforcement efforts, as well as the front-end regulation of activities. So, this is a really important component and one that I think all of the reforms that are being put in place recognise fundamentally, that the necessity of those two institutions that are being built to have to work together in order to ensure that quality, that flow of quality data and information, is fundamentally important. So I just wanted to really emphasise that because it has been something that I know that both the Nature Positive Plan and Minister Plibersek have been outspoken on, and rightly so, given the importance of that topic.

**Greg Manning:** Thank you, James and Jane. Next question seems to have come in and there's two components, parts, to it. I think I'll ask them in two separate questions. So, James for you, first question goes to the splitting into the stages for stage 2 and 3 and the question is a relatively simple one, maybe with a complex answer. But why? Why has the split occurred?

**James Tregurtha:** Maybe if I start Greg with, I think the short answer is we are aiming to get environmental reform done as expediently and as quickly as possible, and so there has been an opportunity last year, when the government passed the Nature Repair Market legislation, for the government to also undertake to do the changes to the water trigger along with that Act. So, as the minister has said, that was stage one. The second stage, now, so just to be clear, it was always the intention right from the Nature Positive Plan and through our consultations, that the creation of [Environment Protection Australia] and the creation of Environment Information Australia as separate statutory roles with their own statutory responsibilities would be undertaken through separate bills in their own right. So, a separate bill to establish EPA and a separate bill to establish the statutory responsibilities for the Head of Environment Information Australia. Those two bills have been drafted, they're still being finalised, but there's an opportunity to if you like, ensure that those two bills are taken forward at this point in time. One of the important things to recognise is, in establishing an institution, particularly a new institution and statutory entity like Environment Protection Australia, does take time and the minister has recognised this in her comments, that the time needed to stand up a separate new statutory authority is significant, in so far as, there are a range of different procedural and administrative elements that need to be undertaken, and in bringing these two aspects of the reform forward, it means that in effect, the department can get on with the job of standing up and implementing EIA and the new Commonwealth EPA to ensure that they: (a) are able to be up and operational as soon as possible, but, (b) are also able to be ready for the changes that come through in stage 3, subject to passage of both of those bits of legislation through the Parliament, that they are able to be stood up and ready to take those on from day one. So that's very much the intention. So, it is very much about ensuring that we continue the process of reform in the most expedient way possible.

**Greg Manning:** Yeah, great thanks, James, it's a good question. The second one is, it changes tack altogether and I think it picks up on an issue raised in the presentation earlier, so what were the changes to the water trigger that occurred in relation to unconventional gas?

**James Tregurtha:** Sure. So as again, I'm sounding a little bit like a broken record but referring back to the Nature Positive Plan again, the government's agenda incorporated the extension of the water trigger, which is an assessment of the implications of actions on water resources and the benefits

they provide broadly to the community and to ecosystems. So, originally the water trigger, when it was introduced, was only relevant to large coal mining and coal seam gas operations. So as part of the Nature Positive Plan the government undertook to extend the operation of that particular component, what we call a matter of national environmental significance, out to cover all forms of unconventional gas. So, people watching may have heard of shale gas and/or tight gas, so they are other forms of unconventional gas. Those different forms of unconventional gas and in fact, a broader definition of unconventional gas has been incorporated into the Act to ensure that all forms of unconventional gas – the impacts of unconventional gas extraction – are assessed in relation to their impacts on Australia's water resources. And indeed, that all of those different forms of unconventional gas are treated equally and fairly as part of the assessment regime.

**Greg Manning:** Great, thanks James. Jane, next question is coming back for you. It looks like the question is for environment information. Does EIA have a road map and a strategy developed for when data will be made available?

**Jane Coram:** Certainly. Well as a new part of the Department of Climate Change, Energy, the Environment and Water, we're busily in the process of working out what the first steps of EIA are, and we are indeed developing a road map which we're aiming to publish by the middle of this year. It's fair to say that the challenge of bringing together a range of national environmental data and information is going to be a long-term challenge. So, we're going to be mapping out what we're going to be doing in the early stages to take us to the early steps of first data and information products and including the first environmental economic accounts and the first state of the environment report in 2026. But it's a collaborative endeavour. And so, we're going to be working closely with our state and territory counterparts and other organisations to help us map out that journey over the longer term and to identify the key environmental data assets that are going to be necessary to underpin the Nature Positive Agenda.

**Greg Manning:** Great, thanks very much, Jane. And there seems to be some questions now about which stages some of the reforms are at. So, a few components to work through here. Question number one, is regional planning still part of the reforms? What stages do these come in and where are they up to? So, we might deal with that one first, James, before we go on to the others.

**James Tregurtha:** Yep, thanks Greg. So regional planning is already underway in the department in so far as the government has provided the funds that I think [Andrew] spoke about earlier, and so, we are already getting on with preparing for regional planning and the reforms. Now there are some – the Nature Positive Plan proposed that we do that, it saw that as a really important component – there are some legislative changes that will be part of stage 3 in relation to how regional planning



operates, not least of which will be the establishment of a national environmental standard, again which is part of stage 3, for regional planning, but there will also be some adjustments – there are also proposed to be, I should say, some adjustments – to the legislative settings and architecture for regional planning. That said, the current EPBC Act itself does make provision for the minister making bioregional plans. So, there is a regional planning power that exists now that will continue to be in place under the EPBC Act. And as I said earlier, the government has already provided some funding for departmental staff to make early advances on making those regional plans. We think that regional plans are a very important future component of environmental regulation because of the way in which they provide the capacity for governments to work together to really set out priorities and planning priorities in different regions across both the environment and development and if you like, for want of a better term, deconflict as far as possible the delivery of those plans in those areas.

**Greg Manning:** Great. That's an excellent update, James. And as I said, there was a couple of components to this question. So, the next one is another sort of status question. When do reforms in the environmental assessment's pathways [occur] and at what stage of the reforms are those changes going to come through?

**James Tregurtha:** So, as I think I mentioned earlier, the short answer to that question is that it is stage 3 with the Nature Positive Act, and the development of that, where those critical reforms to the environmental assessment and approval pathways will be made. As we've said before, this is an area that's important to get right, so they do form part of stage 3. Up until that point the existing settings of the EPBC Act will remain in place, subject to those stop clock provision changes and adjustments that I spoke about earlier.

**Greg Manning:** Thanks James. Alright, that seems we're drawing close to the end of our session today. I'm advised we've had some 222 odd questions come in and obviously we're not going to have time to cover all of those today. So as our final question for this session, it's for you, Jane. What are the Head of Environment Information Australia's reporting responsibilities, and what difference will they make?

**Jane Coram:** The statutory reporting functions that the Head of Environmental Information Australia will have will include State of the Environment reporting, environmental economic accounts reporting, and a monitoring evaluation and reporting framework to report on progress towards nature positive and the government's environmental goals. The head of EIA will be responsible for setting a baseline year for all those records and for establishing a framework for reporting against them. Overall, these reporting measures will improve the regularity and the transparency of reporting on environmental trends and conditions. This is part of a complex suite of legislative

reform, but overall, these reporting functions will help to, first of all improve our understanding of trends in the environment. They will help to inform decision making about actions to protect and reverse further declines in the environment, and it will also hold governments accountable for delivering on their environmental commitments. So, a range of reporting mechanisms, but also data and information will be made available.

**Greg Manning:** Terrific. Thanks, Jane. I think, James, you wanted to say a couple of things too.

**James Tregurtha:** Thanks, Greg. I just wanted to also reflect that, in relation to State of Environment reporting, I was talking earlier about changes to the EPBC Act. It's important to note that the State of Environment reporting will now be part of the Act that establishes the responsibilities of Environment information Australia, those responsibilities that Jane was just running through. So, there will be some amendments to the EPBC Act, and they'd go to those reporting functions just to ensure that the two Acts work effectively together.

### **Slide 13: Thank you**

00:56:25 --> 00:56:48

**Greg Manning:** Terrific. Alright, so that brings us to the end of our session today. Thank you very much for attending. We really appreciate it, and especially to those who have submitted questions for the panel session. As I mentioned, if you do have any further comments that you would like to make, please go to our Have Your Say platform. The link is displayed here on the on the slide that you can see to register your comments. And with that we'll say a good afternoon to you all and thank you very much for your time.

<Webinar close>

End of transcript