

## **Australia's new Nature Positive laws: Webinar 28 November 2023**

Department of Climate Change, Energy, the Environment and Water

<Webinar commencement>

### **Slide 1: Australia's new Nature Positive laws**

00:00:00,660 --> 00:00:16,773

**Mahani Taylor:** Thank you for taking the time to join us today to discuss Australia's new Nature Positive laws. My name's Mahani Taylor and I'm joining you today from Ngannawal Country in Canberra. My colleagues and I are from the Department of Climate Change, Energy, the Environment and Water.

### **Slide 2: Acknowledgement of Country**

00:00:17,640 --> 00:00:37,640

**Mahani Taylor:** I'd like to start today's session with an Acknowledgement of Country. We acknowledge the Traditional Custodians of country throughout Australia and recognise their continuing connection to land, waters, and culture. We pay our respect to their Elders, past and present. I would like to extend that acknowledgement to any Aboriginal and Torres Strait Islander Peoples here today.

### **Slide 3: Agenda for today's webinar**

00:00:39,360 --> 00:02:01,563

**Mahani Taylor:** Today's session will provide an overview of Australia's proposed new Nature Positive laws. I will shortly hand you to my colleague James Tregurtha, who will start with some context setting on environmental regulation in Australia, outline the government's Nature Positive Plan and how the proposed new nature positive laws form one piece of the larger reform agenda. James will then explain how the proposed new laws are designed to work and how they compare to our existing laws.

After the presentation, we will run a question and answer session with our panel. Please feel free to submit your questions during the presentation by using the Q&A button on the bottom of your Zoom window. Please note you won't be able to see other people's questions as part of the system we have for this webinar. Questions will go directly to our team who will provide them to me for the question and answer session. At the end of the session, I will briefly outline where you can find more information

and how you can submit any further written comments to me and my colleagues. We are recording this webinar and it will be published on the department's website in the coming days. I will now introduce you to my colleague James Tregurtha, who's going to present our update today.

**James Tregurtha:** Thanks, Mahani. I too would like to thank you all for joining us today. Let's move into our overview of Australia's proposed new Nature Positive laws.

## **Slide 4: Environmental regulation in Australia**

00:02:03,300 --> 00:04:06,633

**James Tregurtha:** Environmental regulation in Australia occurs through the combined actions of national, state and territory and local governments. The role of the Australian Government in environmental regulation is focused on matters of national [environmental] significance, those parts of Australia's environment and heritage that are most important and that Australia has made international commitments to protect and conserve. Australia's national environmental law is called the Environment Protection and Biodiversity Conservation Act, commonly referred to as the EPBC Act. The EPBC Act makes sure that nationally significant animals, plants, habitats, and places are identified and any potential significant impacts on them are carefully considered before changes in land use or new developments are approved.

I work at the Department of Climate Change, Energy, the Environment and Water, which is responsible for implementing the requirements of the EPBC Act. The department's role includes listing nationally significant matters and implementing the environmental assessment and approval processes required under the EPBC Act. Most activities regulated under the EPBC Act are also subject to state, territory and/or local government laws. We work closely with state and territory governments on environmental regulation, including to help reduce duplication, where state and territory responsibilities overlap with our own.

The EPBC Act is not the only national law in the environment space and the department is not the only national authority. Another Commonwealth entity that also regulates the environment is the Great Barrier Reef Marine Park Authority, for example.

## Slide 5: Nature Positive Agenda

00:04:09,480 --> 00:05:33,303

**James Tregurtha:** Australia's proposed new Nature Positive laws are only one piece of a larger puzzle. The Australian Government is working to protect and restore the natural environment through a Nature Positive Agenda, including a goal of preventing new extinctions of plants and animals and protecting 30% of Australia's land and seas by 2030. The Nature Positive Agenda is a suite of actions, programs, projects, laws, policies, reforms and on-ground operational activities targeted at addressing the drivers of environmental decline and creating circumstances in which nature can thrive.

The Nature Positive Agenda has three fundamental objectives, protecting more of what's precious, managing nature better for the future, and lastly, repairing more of what's [already] damaged. Achieving a nature positive Australia requires delivery of priority reforms and initiatives to alleviate the pressures creating environmental decline. This requires collaboration and partnerships across governments, industry, communities, First Nations peoples, and the international community. These groups all have critical roles to play.

## Slide 6: Nature Positive Plan

00:05:36,030 --> 00:06:56,223

**James Tregurtha:** On the 8th of December last year, the Minister for the Environment and Water, Tanya Plibersek, 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 start to create the 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 EPBC Act commenced back in the year 2000. The reforms will ensure that our national environmental laws are outcomes-focused and nature positive. Regulatory processes will be simplified and streamlined to better protect, restore, and manage nature, and to de-risk projects for business.

Since the Nature Positive Plan was released in December last year, we have been working to deliver a package of new environmental laws for introduction to the Australian Parliament. The existing EPBC Act is complex and there have been many detailed issues to work through to make sure the new laws work better for the environment and for business [and industry].

## Slide 7: The 9 Matters of National Environmental Significance (MNES)

00:06:59,370 --> 00:08:43,983

**James Tregurtha:** The existing EPBC Act protects nine matters of national environmental significance. These are nationally threatened species and ecological communities, migratory species, wetlands of international importance, which are often called Ramsar wetlands after the international treaty under which such wetlands are listed. World Heritage Properties, National Heritage places, Commonwealth marine areas, the Great Barrier Reef Marine Park, protection of the environment from nuclear actions, and finally, water resources in relation to [impacts from] coal seam gas development and large coal mining development, which you may have heard referred to as the water trigger.

The new environmental law will protect these same nine matters with two changes. The nuclear actions protected matter will be updated to better reflect the radiation management standards of the Australian Radiation Protection and Nuclear Safety Agency, commonly known as ARPANSA. Nuclear actions will be referred to as radiological exposure actions to better reflect contemporary terminology. The water trigger will be expanded to ensure the appropriate management and protection of water resources from all forms of unconventional gas, including coal seam, shale, and tight gas developments, where those developments significantly impact on a [nationally protected] water resource.

## Slide 8: National Environmental Standards

00:08:47,490 --> 00:11:09,873

**James Tregurtha:** New laws will enable the Minister for the Environment to make National Environmental Standards. These standards will improve environmental protections and guide decision-making by setting clear expectations for regulated activities. The National Environmental Standards will ensure that decisions under the new laws contribute towards a nature positive Australia.

Six National Environmental Standards are currently being developed. These Standards will form part of the legislative package proposed to be introduced to the [Australian] Parliament next year. The Standard for Matters of National Environmental Significance will set clear and strong protections for our nationally important matters. A Standard for Restoration Actions and Restoration Contributions will set out how developers must compensate where significant impacts on protected matters are permitted either through a direct restoration activity or by making a payment to the Australian Government. It also provides the framework for how the Australian Government must use that payment for environmental

restoration. The Standard for First Nations Engagement and Participation in Decision-making will ensure early engagement with First Nations peoples to enable their views and knowledge to be considered in project design and regulatory decision-making. Next, the Standard for Community Engagement and Consultation will ensure effective community contribution to environmental decision-making. The Standard for Regional Planning will establish requirements for [new] regional plans to be made under the new laws. Finally, the Standard for Data and Information will set requirements for information used in environmental [decision-]making.

The National Environmental Standards will be made by the Minister for the Environment once the new laws are passed by the Parliament. National Environmental Standards will be subject to a review every five years and cannot be changed to reduce environmental protection, only to increase environmental protection.

## Slide 9: Other key changes

00:11:13,860 --> 00:16:50,253

**James Tregurtha:** Other key changes in the proposed new Nature Positive laws that relate to climate change, community engagement, conservation planning, and unacceptable impacts. For climate change, developers will be required to provide an upfront estimate of the domestic greenhouse gas emissions associated with their projects [seeking approval], prior to [that] approval. Developers will also need to explain in their application how these emissions will be managed in line with any relevant state and Commonwealth legislation, including the baseline set by the [Australian Government's] Safeguard Mechanism under the National Greenhouse and Energy Reporting Act.

The information that developers outline will be made publicly available. For those projects covered by the Safeguard Mechanism, relevant information will also be sent by Environment Protection Australia to the Minister for Climate Change to support climate accounting and reporting. In addition, landscape scale assessments under the new Nature Positive laws, such as strategic assessments and regional planning, will need to build in adaptation and resilience measures to address future climate change impacts.

Community engagement under the new laws will be front loaded. That is, developers will be encouraged to conduct community engagement early [on] in project development so that community feedback can be considered as the project is being designed. Community engagement requirements will be managed at multiple levels, directly through the new laws, in the National Environmental Standard for Community

Engagement and Consultation, and in new policy and guidance documents. Improved community engagement and increased transparency across the new system will make it easier for the community to understand and contribute to environmental decision-making by the Australian Government. Information about assessments and decisions will also be published on Environment Protection Australia's website.

Since the EPBC Act [Environment Protection and Biodiversity Conservation Act 1999] came into effect in 2000, the threats to Australia's biodiversity have changed and grown with more species and ecological communities threatened with extinction. Extreme events such as the 2019/20 Australian bushfire season, also known as the Black Summer Bushfires, have highlighted the need for conservation planning that can adapt to rapidly changing circumstances and threats. Existing arrangements for individual species can be heavy on process and paperwork, which can be difficult to keep up to date. The Australian Government is committed to delivering on-ground protection and recovery outcomes for protected species and ecological communities by ensuring they are supported by fit for purpose effective conservation planning.

The reformed conservation planning system will be more agile to address the latest threats in [and take account of the latest] science. It will also be accessible to guide priority threat abatement and recovery investment and actions where they are needed most to halt biodiversity decline. Importantly, conservation planning will be informed by the best available expert information, including independent advice from the Threatened Species Scientific Committee, as well as First Nations peoples, ecologists, and other scientists and other stakeholders. Changes to conservation planning approaches will include consolidating information into a single recovery strategy for each protected species and ecological community with strong regulatory standing in environment impact assessment processes, and a modernised data management platform that makes it easy to search for and access digitised plans for protected species and ecological communities. [This will enable organisations, developers, communities], and governments to target protection, threat management and recovery actions at any scale. For example, at a regional, habitat, or ecosystem type, threat or species specific scale.

The new Nature Positive laws will define unacceptable impacts for nationally protected matters. Actions with unacceptable impacts will not be approved by our new regulator, Environment Protection Australia. Unacceptable impacts [will] include, for example, impacts that would significantly reduce the viability of a listed species or ecological community and its ability to survive in the wild, [or that] cause irreversible damage to one or more values of a World Heritage property, such as damage of a scale or

intensity that would cause the heritage values to be lost or unable to be recovered, or cause irreversible damage to the ecological character of a Ramsar wetland.

## Slide 10: Environment Information Australia

00:16:52,860 --> 00:18:56,073

**James Tregurtha:** The Australian Government has established Environment Information Australia within the Department of Climate Change, Energy, the Environment and Water. Environment Information Australia's role is to ensure Australia's available environmental data, reporting, and analysis is [available and] used to support decision-making. Environment Information Australia will ensure data is contemporary, accessible, searchable, interoperable, and [of] high quality. Better data will support our ability to prioritise actions that will protect and restore our environment. The new laws will create an independent statutory officer as the head of Environment Information Australia. This officer will have clear responsibilities and powers to ensure independent and trusted reporting on the environment, including improving data availability, analysing trends, and monitoring progress towards [Australia's] national environmental goals.

Consistent reporting and analysis underpinned by regularly updated and publicly accessible data and information will help us to know if Australia is on track to meet our national environmental goals. This includes reporting on our progress towards achieving nature positive [outcomes]. Our national environmental goals include things like protecting and conserving 30% of Australia's land and 30% of Australia's marine areas by the year 2030, achieving net-zero emissions by 2050 and working towards a circular economy. State of the environment reporting will be underpinned by environmental economic accounts and be informed by the best available science and First Nations knowledge.

## Slide 11: Environment Protection Australia

00:18:58,740 -->00:20:56,103

**James Tregurtha:** The Australian Government will also establish Environment Protection Australia, a new independent national environment protection agency. It will take [the] politics out of decision-making and act as a tough cop on the beat. Environment Protection Australia will enforce national environmental laws and operate with greater independence and transparency to restore public confidence in Australia's environmental protection system. The Minister for the Environment will be

able to issue Environment Protection Australia with a public statement of expectations but will not otherwise be able to direct the agency.

Environment Protection Australia will be a separate statutory Commonwealth entity with its own budget led by a chief executive officer. It will make transparent decisions on environmental permits and approvals under national environmental laws based on high quality data. It will [also] conduct compliance and enforcement to ensure accountability in regulated activities affecting nationally protected matters, and it will be responsible for providing independent oversight of decisions [made] under accredited arrangements.

The final design of Environment Protection Australia is being informed through consultations with stakeholders and partners, including with state and territory governments. The Minister for the Environment will retain responsibility for direction setting and Australian Government policy under national environmental laws, including the determination of nationally protected matters, whereas Environment Protection Australia's role will solely focus on regulation.

## **Slide 12: What will EPA's assessment process look like?**

00:21:00,270 --> 00:26:31,983

**James Tregurtha:** One of the key regulatory functions of Environment Protection Australia will be assessing applications for environmental approvals under the proposed new Nature Positive laws, which will replace the referral and assessment process [that operates] under the existing EPBC Act [Environment Protection and Biodiversity Conservation Act 1999]. Under the EPBC Act [and the new Nature Positive laws], actions that may have significant impacts on nationally protected matters require environmental approval. While this [requirement] will remain the same under the new national environmental laws, it will be the CEO of Environment Protection Australia that will make the [approval] decision instead of the Minister for the Environment.

The new assessment process will be simplified and streamlined to deliver better and faster decisions while safeguarding Australia's unique environment. It will do this by removing prescriptive, outdated, and contradictory processes, having a single streamlined assessment process, rather than five different pathways, supporting developers by providing better upfront guidance, being outcomes focused, providing new information systems, and through Environment Information Australia, access to better data to better support decision-making by developers and across national, state, and local levels of government, by strengthening cost recovery for assessments and approvals and updating arrangements,



and by requiring developers to demonstrate upfront that they have made reasonable efforts to avoid and mitigate impacts to protected matters. Only then can a restoration action or a restoration contribution be used to compensate for any remaining impacts and improve the environmental outcomes for the impacted matter.

There are three core steps in the new assessment pathway. The first step [like now] is self-assessment, much like under the current processes. In this step, a developer will familiarise themselves with the National Environmental Standards and other legal obligations. In these early stages of project development, a developer will design their project, and in conjunction with [early] community consultation, refine the design of their project to ensure consistency with the National Environmental Standards. Once the developer is satisfied that their proposal is consistent with National Environmental Standards, the self-assessment will be [able to be] finalised and the developer will lodge their application through the Environment Protection Australia's application gateway. Environment Protection Australia will then have up to 60 business days to assess the application and decide whether the application can be approved or refused. If the application is approved, this can be with or without conditions.

Some developers will decide through their self-assessment that they're not likely to have a significant impact on [a] nationally protected matter, but may still want legal certainty that an approval is not required. In these circumstances, a low impact pathway will be available. Under this low impact pathway, the developer still undertakes a self-assessment, but once they are satisfied there are no significant impacts to protected matters, the developer would then lodge their application through the Environment Protection Australia application gateway.

In this case, Environment Protection Australia then have 20 business days to assess that application and to decide whether the proposed action does or does not require approval. If Environment Protection Australia determine the action does not have any significant impacts on nationally protected matters, no further action is required. If [however,] Environment Protection Australia decide that an approval is required, the developer will [then] need to move into the standard assessment pathway, ensuring they meet the associated requirements for an approval.

The new assessment pathway also includes a ministerial call-in power. This will allow the Minister for the Environment to call in and make approval decisions that would otherwise be made by Environment Protection Australia. Decisions made by the minister would still be supported by environmental

assessment through Environment Protection Australia and the minister will [still] need to make decisions in accordance with legal requirements. When calling in a decision, the minister will be required to publish both their reasons for calling in the decision and the basis for the decision on whether to grant an environmental approval.

Where there is an urgent need to conduct an activity that would ordinarily require environmental approval, and if this is in the national interest, a national interest exemption would allow it to proceed without environmental assessment. The national interest exemption will be tightly and clearly defined in the legislation.

## Slide 13: Other decision-making streams

00:26:35,400 --> 00:27:59,133

**James Tregurtha:** Consistent with the current EPBC Act [Environment Protection and Biodiversity Conservation Act 1999], there are a few alternative processes that a developer can use to secure an appropriate authorization to undertake an action that impacts [on] nationally protected matters. The first of these is regional planning. Governments will be able to work together to enable better, faster environmental decisions and better outcomes for nature at a landscape and seascape scale, including by addressing cumulative impacts. Regional plans will improve protection and restoration of priority conservation areas and provide clear guidance for project proponents about their environmental obligations in areas appropriate for development.

Improved strategic assessments are another option. As currently under the EPBC Act, strategic assessments will provide for a landscape scale assessment of a range of similar actions. The improved strategic assessments will have greater flexibility, clearer ongoing responsibilities for approval holders and better oversight through EPA [Environment Protection Australia]. Regional planning and strategic assessments provide for consideration of the cumulative environmental issues and developmental pressures at a landscape scale.

## Slide 14: What is staying the same?

00:28:01,680 --> 00:29:09,303

**James Tregurtha:** Broadly, the responsibilities of the Australian Government and those of states and territories, including [in relation to] the nine matters of national environmental significance, will remain the same. The Australian Government, through Environment Protection Australia, will continue to

regulate the environmental aspects of imports and exports, including native wildlife, hazardous waste, chemicals and certain waste products.

Places of national and international importance protected under national laws, such as World Heritage areas, will still be protected and managed in much the same way. Developers will still need environmental approval under national environmental laws where they have significant impacts on nationally protected matters, and they will still need to undertake self-assessment of likely environmental impacts to decide whether approval is required. The government will keep working with stakeholders and the community to continually improve our systems and processes.

## **Slide 15: Nature Positive Plan: Key outcomes**

00:29:12,570 --> 00:32:19,860

**James Tregurtha:** The Nature Positive Plan aims to better protect, manage, and restore our environment. Better outcomes for Australia's environment and heritage will be reflected in our new laws in several ways. We are protecting more of what matters most, and hard protections for critical protection areas of habitat essential for the survival of Australia's native species. We are making sure the environment is better off with each project with nature positive outcomes for each project or regional plan, which is a really important contribution by the regulatory system towards a nature positive Australia. We are also increasing trust and holding ourselves to account through Environment Information Australia with greater transparency on how we're tracking on nature positive outcomes nationally, regionally, and at a project level, and through creating an independent EPA [Environment Protection Australia].

The changes set out in the Nature Positive Plan will also be better for business and industry. We are giving a much faster pathway to an approval for businesses. This could save potentially years of assessment time if businesses design their projects well by avoiding critical protection areas and not having impacts that would lead to the extinction of a species. We are also de-risking projects by providing clear direction on which areas to avoid, plus upfront engagement by Environment Protection Australia on project proposals. This will give business greater certainty that if you design your project well, you will get a quick yes within 60 business days. We are de-conflicting key development areas for renewable energy, critical minerals and housing development. Using regional plans developed collaboratively with states and territories to provide businesses and communities with clarity on conservation and development priorities for key areas around the country.

Finally, delivering improved accountability and transparency in national environmental decision-making is key to the success of the proposed new laws. The reforms deliver this by establishing EPA [Environment Protection Australia] as an independent environmental regulator, establishing Environment Information Australia to improve the quality and accessibility of environmental data and information. Ensuring consistent transparency and engagement requirements are applied across the breadth of decisions under the new laws. Ensuring statutory committees have clear roles under the new environment laws. This includes enhancing the Indigenous Advisory Committee's role and clarifying requirements for consideration of social and economic matters in decision-making. That concludes my presentation. I'll now ask Mahani to step in and take us through next steps.

## Slide 16: Next Steps

00:32:19,860 --> 00:33:51,910

**Mahani Taylor:** Thanks, James. The Australian Government is conducting a rolling consultation process for the new laws. This webinar is just one part of that. Consultation on the detail of the new national environmental laws began in October of this year, with experts from more than 30 groups, including environment, business, and First Nations representatives, who were invited to carefully examine the detail to make sure the new laws will be as effective as possible. These webinars provide you with an opportunity to find out about the reforms and to ask questions. The webinar recording, slides and transcript will all be made available on the EPBC Act reform webpage. We will also be accepting any comments you have about the reforms through the Have Your Say platform, accessed through the EPBC Act reform webpage.

Our rolling consultation will continue into next year so that all Australians have the chance to hear about the new laws and have their say before introduction into Parliament next year. After the package of new laws is passed, there will be a transition period before the laws take effect. During this time, we will continue to work closely with those affected to get everyone ready, including publishing lots of information on what the changes mean and how to prepare. If there are any elements of the reform that you are particularly interested to hear more about, please suggest these through the comment function on Zoom or through the Have Your Say platform.

## Slide 17: Questions and answers

00:33:54,840 --> 00:34:30,390

**Mahani Taylor:** We will now move on to the question and answer element of the session. You can use the Q&A button on the bottom of your Zoom window to enter questions which will be sent through to our team. We are conscious there are lots of people online and we will try to get to as many questions as possible, get to them as quickly as possible. Our team may also group questions where they cover similar issues. If we don't get a chance to address your question today, you are welcome to submit comments to the team via Have Your Say.

Our panel today consists of James Tregurtha, Ilse Kiessling, and Greg Manning.

## (No slide) Question and answer session

00:34:30,390 --> 01:27:15,450

**Mahani Taylor:** I'll be reading out questions for our panel, and we have received over 140 questions so far. The first one is for Ilse, to give James a bit of a break. Could you please provide more detail on what is meant by more agile conservation planning?

**Ilse Kiessling:** Thanks, Mahani. That is a really important part of the reforms that we are proposing. What we mean by more agile is that we want to be able to respond to new information better, and that means at the moment we have a range of conservation planning documents that are in place for protected species and ecological communities. These include recovery plans and conservation advice. Those documents are published on our website and they go through legal processes, parliamentary processes to bring them into place.

What we want to be able to do is to create recovery strategies in the future that are made up of different modules, and in doing so, we are able to then gather new information, we are able to understand better what the threats to species are, and then incorporate that information into the modules of the recovery strategies. The agility that we are looking for is the ability to be able to respond to new information that tells us how we need to protect species better, how we need to respond to threats better, and how we need to direct resources towards support for protection into the future. This is, as I say, really central to the reforms that we are talking about for conservation planning for species and ecological communities.

**Mahani Taylor:** Fantastic. Recovery strategies, providing the best and earliest information in a much more timely way.

**Ilse Kiessling:** That's right, Mahani, and I might also say that the agility is also brought about by having our recovery strategies included in the Environment Information Australia database, so that we are wanting to make sure that these recovery strategies of the future are available online, they are much more accessible, we are able to interrogate those recovery strategies better, and so that the agility is also about making information much more accessible to people and much more real time and fit for purpose.

**Mahani Taylor:** Fantastic. More agile and more timely. That's fantastic and more accessible.

Next question. How will regional planning work, and will it be closely linked to the existing natural resource management landscape plans across Australia? This one is for Greg.

**Greg Manning:** Thank you very much, Mahani. How will regional planning work? Regional planning is intended as a tool that governments can use, particularly in areas where we foresee development pressures conflicting with environmental values. The real advantage of the regional planning process is it enables us to take up a landscape scale view rather than a project by project scale view. Actually understanding the landscape and where the environmental values are and which ones are of the highest value. And then through the planning process, the process of developing the plan itself, we can then work with the industry, a class of actions that's proposed to take place in that region to help position that industry so that it minimises the impacts on the environmental values. Which really gets us two things; a better environmental outcome overall, but also a faster development for those businesses looking to move in and work in the regional planning area.

In broad terms, it works in two ways. One, we look to really understand the detailed values of the environment in a particular region, and that's followed by the planning stage. It's really looking as to how we position and work with the industry around those values in the best and most effective way. That's generally speaking how regional planning works. What was the second half of that question, Mahani, again?

**Mahani Taylor:** I think it was... I have lost the question now, so we might pass to that one later.

**Greg Manning:** Apologies. Yep.

**Mahani Taylor:** All right, next question. This is a good one. Was the Samuel Review used as the basis for the drafting of these new environment laws?

**James Tregurtha:** I think that's one for me. A couple of things on that. The Nature Positive Plan that was released by the Government on the 8th of December last year was the Government's full response to the Samuels Review. In answer to your question, the Nature Positive Plan in responding to the review, mapped out the Government's agenda for reform of national environmental laws, which is the package that I have just taken us through in our presentation. In that sense, you could say the government's response to the review has informed the development of the new laws. The Samuels Review is not the only driver of the new laws though. Of course the government made a number of commitments in terms of its environmental platform, and those are also incorporated in the Nature Positive Plan. I guess I would say that the Samuels Review was a key contributor to the development of the new national environmental laws package.

**Mahani Taylor:** Excellent. Thank you, James. For the second half of your question, it was how will regional planning interact with NRN plans?

**Greg Manning:** Terrific. Yeah. Okay. The first stage of the regional planning process will be first to identify what the region is that is in question for that regional plan. And in that process I was mentioning before, about looking at determining what the environmental values are for that region, the planning process and the gathering of information would work through different processes and existing sources of information to understand those values. Obviously we are aware we have got those NRM regions all across Australia with a wealth of information in relation to those regions. I would envisage that would be one of the sources of information that the Commonwealth working with the states could bring into that information gathering phase of the regional planning process and really help us to get that underpinning and understanding of the region in order to inform the planning process. It is one source of information which we would then accompany with other sources of information that is existing plus any on ground work that's done to actually make that at a more granular level.

**Mahani Taylor:** Brilliant. Really building on those NRM plans as you are able to and putting extra information in there.

**Greg Manning:** Bringing in that knowledge that has been generated through the NRMs and their regions, I think there is a real opportunity to do that through the information gathering phase of the planning process.

**Mahani Taylor:** Fantastic. All right. The next question we have, who is responsible for making a decision about whether a project has got unacceptable impacts and is this decision subject to review by a court?

**James Tregurtha:** Maybe I will start with that one. Ilse may well want to weigh in. In terms of the decision about whether a project has unacceptable impacts, the nature of unacceptable impacts that I refer to in my presentation will be defined. Ultimately it will be up to the regulator in making a regulatory decision to ensure that no unacceptable impacts occur in the making of that approval decision based on that definition. But as Ilse pointed out earlier, the development of new recovery strategies will incorporate a wealth of information around what would constitute for a particular species or ecological community or migratory species, what would constitute an unacceptable impact, whether that is in relation to the viability of the entirety of the species in the wild, or whether that is in relation to actually in some cases for some species, that could well be a particular area of such significance that was considered unacceptable.

As I said in summary, it is a defined approach that the EPA will apply in making its regulatory decision, but the application of that definition will also take into account all of the information and the currency of it, as Ilse pointed out earlier, that is available through recovery strategies.

**Mahani Taylor:** Excellent. So generally Environment Protection Australia making that decision, and is this decision subject to review by a court?

**James Tregurtha:** The decisions of Environment Protection Australia will be subject to judicial review to ensure that they go through an appropriate process. If it was determined that a process step was missed, that would be something that would need to be rectified and a court could seek to do that. Therefore, in terms of the process of applying the critical protection area into the decision-making, yes that would be reviewable by a court, but the actual determination would not be reviewable by a court. The nature positive plan has set out that the Government will not introduce what's called a merits review, into the actual determination of the decision, so yes, for whether the process steps have been met.

**Mahani Taylor:** Thank you. All right. The next question is a good one. They are all good questions. Development can cause ecosystem and species fragmentation. How will these laws and Standards prevent this death by a thousand cuts? I don't know if we'll start with... This is one that probably all the panel could contribute to. James.



**James Tregurtha:** Maybe I will start and then I am sure probably Greg and Ilse both would want to weigh in on this. From a regulatory perspective, as I said, one of the considerations of unacceptable impacts is any impacts that would basically undermine the viability of a species in the wild, which would include fragmentation potentially in some cases. The various attributes that would be taken into account in decision making would include consideration of the implication of developments on Australia's protected matters and the ramifications of that including fragmentation, but I might just pass to Ilse and Greg to see if they would like to add anything on that one.

**Ilse Kiessling:** Thanks, James. I think a short way of saying this that death by a thousand cuts or another way to describe that is cumulative impacts. Cumulative impacts are addressed by a cumulative response, so recovery strategies will be a really important part of a whole host of other things that we are talking about through the nature positive reforms that will help us take that cumulative response. Recovery strategies will provide the description of what the threats to species in ecological communities are, which will be a really important part of how we respond, how we protect our biodiversity into the future, but I think that maybe Greg can also talk to us a little bit more about some of the range of other things that we are talking about that really give the collective response to a whole host of competing and impacts that are overlapping with each other.

**Greg Manning:** Yeah. Thanks, Ilse. Just building on those couple of answers in the areas I am responsible for. I think the two mechanisms that James talked about that take a landscape scale approach are a particularly important part of the response to this issue. Both the strategic assessment pathway and also the regional planning pathway provide an opportunity to account for the cumulative impacts that Ilse is talking about that will pick up scientifically through those documents, the recovery plans and the like, and then enable them to be built into the response mechanisms for when a development occurs in those areas. For example, climate change will be one of the impacts that a regional plan will look at in terms of the conservation planning within that region and therefore we can build that pressure into our response to that; the impact that feral or invasive animals or species are having in that region through the planning process by understanding what's going on. We can pick up on those pressures as well and that can also become part of the regional plan response to development in that area.

I think there is a real advantage for dealing with this issue of death by a thousand cuts through those landscape scale approaches. Just one other thought beyond that I guess I would add, which I think is what Ilse is alluding to, the recovery strategy, the documentation which picks up those threats and those impacts can also inform actions taken by the Government or governments outside of national

environmental law, so programs like the Natural Heritage Trust, which invest in protecting species and the like can also benefit from the information in those. It's not a strictly a legal mechanism within the law, but that information spills out into other investments that governments make, which enable us to manage the pressures on the landscape, quite aside from the laws we are talking about here regulate directly.

**Mahani Taylor:** Thank you. That is a really comprehensive answer from the three of you. Recovery strategies largely at the heart of that with that really timely and good information available not just to decision makers in terms of regulation, but also in terms of funding for other things to deal with these impacts, and of course that regional scale of planning and regulation.

All right. Next question. Fire ants, first detected in Australia in 2001, and are now expanding into New South Wales. How will the reforms help manage threats to our native environment and species? I will pass that one to Ilse to start with.

**Ilse Kiessling:** Thanks, Mahani. That one is probably for me. Threat abatement is one of the most important things for us in managing our biodiversity and protecting our biodiversity. We currently have key threatening processes and threat abatement plans that are established under the EPBC Act [Environment Protection and Biodiversity Conservation Act 1999] and will continue to have a good acknowledgement of threats under the new nature positive reforms. That will be through continuing to list key threatening processes. We will also be about creating threat abatement strategies. Similar to the recovery strategies, we are talking about threat abatement strategies being much more agile, responsive, able to be updated as new information becomes available and made available online through Environment Information Australia.

Those threat abatement plans will be key to understanding what the national threats to our biodiversity are and what the national responses to those threats should be. They will also be much more closely linked with our recovery strategy so that there will be a relationship between a species specific scale threat through to a national landscape scale threat.

Fire ants are a very important, very significant threat to our biodiversity. We are giving them attention through a whole host of different measures and will continue to do so through the new reforms through things like threat abatement strategies and through our work on species specific recovery.

**Mahani Taylor:** Excellent. Thank you. All right. Next question. Can the Minister call in a proposal if Environment Protection Australia has already made a decision to either approve or reject that proposal? I think it's one for James.

**James Tregurtha:** Thanks for that question, Mahani. The short answer to that question is no. For the Minister to be able to call in a project, it means the Minister will become the decision maker for the project. If a decision has already been made, it won't be possible for the Minister to call that in after the decision and remake or do a new decision, because that would introduce uncertainty into the system. The EPA will make its independent decision. However, anytime leading up to the making of that decision, the Minister, and as we pointed out in the presentation, the Minister can make a declaration to the EPA that they are seeking to call in one of those projects that has not yet had its decision made. In that circumstance the Minister becomes the decision maker, the single sole if you like, decision maker in the same way that ordinarily the EPA will be the sole decision maker. Anytime up to just prior to the decision being made, but never after the decision is being made.

**Mahani Taylor:** Excellent, James. So it's one or the other, but not both.

**James Tregurtha:** Correct.

**Mahani Taylor:** All right. The next one I think is a good one for Greg at least to start with. How are these new laws going to interact with forestry and regional forestry agreements, forest agreements?

**Greg Manning:** Thanks, Mahani. In essence, I think the response to that is broadly set out in the Nature Positive Plan, which indicates that the Government would work towards applying the new matters of the Standards for MNES and the others to the regional forestry agreements. We have commenced that process. That is a case in the first instance of working with our colleagues at the Department of Agriculture, Fisheries and Forestry who have the lead Commonwealth responsibility for forestry and the RFAs [regional forest agreements]. It's a conversation with them as the Standards are developed and then working through a process with them as to how we engage with the industry in relation to the application of those Standards as they are developed and finalised. That is the process which is laid out in the Nature Positive Plan and the process that we will work through. In terms of where we are up to, at the current point in time, we have commenced our engagements with our colleagues at the Department of Agriculture [Department of Agriculture, Fisheries and Forestry] and working through what that would look like into the future.

**Mahani Taylor:** Excellent. Clear guidance and direction in the Nature Positive Plan that those Standards will apply to forestry?

**Greg Manning:** Correct. That we work towards applying, that's correct.

**Mahani Taylor:** Fantastic. All right. Our first climate change question. Which type of emissions will proponents have to disclose and how will this information be used? I will direct that to James.

**James Tregurtha:** Thanks, Mahani. Under the current new environmental laws, [the] proposed new environmental laws, proponents will have to disclose their domestic emissions, so essentially scope one and scope two emissions for those who are familiar with those descriptions of emissions. But they are domestic emissions in relation to the project activities that are being proposed for approval to Environment Protection Australia.

Those disclosures of scope one and two, as I said in my presentation, in addition to those disclosures of emissions figures or estimates, if you like, the application will also have to set out how those are compliant with any existing Commonwealth or state and territory laws in relation to emissions management. From the Commonwealth perspective, clearly that includes the Safeguards Mechanism for those operations that reach the thresholds where the Safeguard Mechanism applies as that's one of the key elements of the Australian Government's commitments in relation to meeting its commitments under the Paris Agreement.

In terms of how those projections will be used, again, as I said in my presentation, where companies are captured by the Safeguards Mechanism, the Environment Minister or Environment Protection Australia, depending on who the decision maker is, referring back to our last question, whoever is the decision maker will then be obliged to pass through those emissions projections to the Climate Change Minister to ensure there is that accountability mechanism with the application of climate change laws, specifically the Safeguard Mechanism.

**Mahani Taylor:** Thanks, James. Of course there is a lot more transparency around that reporting as well in terms of publication.

Excellent. All right. The next one is for Ilse. Will recovery strategies be available for all relevant species and ecological communities?

**Ilse Kiessling:** I think the important part of that question is all relevant. We come back to the point that our future legislation will list those species that are considered to be of extinction risk at a national level.

We currently have about 2,100 species and ecological communities that are listed under the EPBC Act and we will be maintaining protections for those species under the new legislation.

Mahani, can you just remind me of the question again?

**Mahani Taylor:** Now I am just recalling this because of course its disappeared. Will recovery strategies be applied to every species?

**Ilse Kiessling:** Sorry. Thank you. That is right, exactly. The relevant species and ecological communities will be those that are listed under the new legislation. That will include all of the species that are currently listed and any species that are found to be at extinction risk into the future. Recovery strategies will be compulsory for those species and ecological communities that are listed and available for us to also prepare for migratory species.

Migratory species can be threatened species, but sometimes they may not be. Migratory species are those species that are considered to move or we understand that move between countries and that are recognised by the Convention of Migratory Species at an international scale [United Nations Convention on the Conservation of Migratory Species of Wild Animals]. Some of those species, as I said, can be threatened as well and so there will definitely be recovery strategies. For those migratory species where we feel that there is a decision by the Threatened Species Scientific Committee that they would benefit from a recovery strategy, we have the option of also being able to create a recovery strategy for migratory species too.

**Mahani Taylor:** Excellent. I am going to ask a follow-up question just to say that it is an enormous number of recovery strategies. Do we have to get 2,100 recovery strategies into place very, very quickly?

**Ilse Kiessling:** That's a really important question to follow up on. Thank you. The existing conservation planning documents, that's recovery plans and conservation advice, they will all continue to operate, they will all continue to be in effect until such time as we are able to transition them into the new legislation into recovery strategies. That is a really, really important point to make is that those protections for species and ecological communities that are listed will be maintained and they will be enhanced under the new legislation. We will need to go through a process of working out exactly how we make that transition. That is a really important part of the new reforms is how we move into the new recovery strategies. We will do that through a prioritisation process and make sure that those species and ecological communities that need the greatest attention get it first.

**Mahani Taylor:** Excellent, but certainly no gap between existing recovery plans and conservation advices and moving into recovery strategies.

**Ilse Kiessling:** That's correct, yes.

**Mahani Taylor:** Fantastic. All right. This is a good question. When are the new laws going to start and what will be the transitional arrangements? We know already for recovery strategies.

**James Tregurtha:** Thanks. I will jump in on that one. The Government has committed to getting the package of new laws introduced to Parliament at the earliest opportunity next year, 2024. Then of course it is up to the Parliament, so it will then go through whatever parliamentary processes it needs to go through and as determined by the members of Parliament. I'm sure there will be a range of debates and other considerations that happen at that stage. Once the law is passed into law and is ascended to, generally with reform packages of this magnitude, and certainly with this one, we will be building in a transition period. In effect the laws will be passed at a certain point but will not commence for a number of months later to provide time. For example, those proponents who are currently in the existing regulatory system to determine how the new laws will affect them and to ensure that they can continue to move through in an orderly process.

Ilse has already mentioned the transition of some of the recovery documents at an early stage into recovery strategies, so there would be clearly a process for doing that and a range of other elements require a transition pathway to be set out. As part of the package there will be a transitional and consequential provisions bill. One of the bills that are introduced to Parliament as part of the package will incorporate all of the transitional arrangements that will set out very clearly what happens to all of the different elements of the existing system established by the EPBC Act [Environment Protection and Biodiversity Conservation Act 1999] and indeed the consequential changes that are made arising from the introduction of a new independent Environment Protection Australia.

I'm conscious of course of mentioning that Environment Protection Australia will do permitting and licensing activities in relation to a range of Commonwealth laws, not just the EPBC Act. For example, Australia has the Recycling and Waste [Reduction] Act. I think I've got that name right. It's got an act in relation to the transboundary movement of hazardous wastes [Hazardous Waste (Regulation of Exports and Imports) Act 1989], which we have also talked about. The permitting activities provided for by those pieces of legislation will also become the decisions of the Environment Protection Australia. So those

acts will also need to be updated to ensure that they reflect appropriate arrangements in terms of having EPA Australia as the decision maker.

All of those, as I said, will be set out in a transitional and consequential provisions bill that will also incorporate the date of commencement. When Parliament considers the package, commencement dates will be in place, providing for a transitional period. Then the last thing I would say in relation to that transitional period is that will be the time when the department will be working with the Minister and Government, and the new EPA and the Environment Information Australia to ensure appropriate policy guidance and information that's not in the law but is really essential to the operation of the new laws, is available prior to those laws actually coming into effect.

**Mahani Taylor:** Excellent. The passage of the legislation is really just the start as we then move for a period before commencement and then transitions within the first period of the law being in effect as well.

**James Tregurtha:** Indeed.

**Mahani Taylor:** Excellent. Next question. This is a good one. What does nature positive mean and how will success of the nature positive agenda be measured?

**Greg Manning:** Happy to jump in if you like. Australia is well positioned in terms of nature positive and what it actually means. There is actually a definition set out in the Nature Positive Plan, which from recollection indicates that nature positive describes circumstances in which nature, the environment, species and ecosystems is being repaired and is regenerating rather than being in decline. I think I have got that right. That definition is set out within the Nature Positive Plan and is what we are using to orient us towards our application of nature positive through these reforms and other work.

In terms of how success will be measured, I think from my perspective I would add a couple of things in relation to that. First of all, Environment Information Australia, through its responsibilities for the continuing development of the State of the Environment Report will provide an absolute measurement, if you will, of the trajectory of Australia's nature as it has into the future as well. We would expect that to continue as a key mechanism for tracking Australia's progress towards that nature positive outcome.

Beyond that, and my colleagues might want to add to this, the individual programs and reforms which the Australian government runs and implements, including the laws, but also beyond the laws in terms of the other reforms and activity we undertake in this space. All of those will have of course monitoring,

evaluation and reporting requirements built into them as well, which will provide us the ability to qualitatively, quantitatively if we can, their contribution towards that nature positive outcome. I think for my part, you get those combination of things, which gives us different ways of looking at and measuring our trajectory towards nature positive. That'd be my response for that one.

**Mahani Taylor:** I think that is a pretty good response, but James, would you like to add anything?

**James Tregurtha:** I will just add a couple of things. The first is I think as I said in my presentation, the individual project approvals, where restoration actions or restoration contributions are required, there will be an obligation to demonstrate how those actions or contributions result in a net gain for the outcome of that project being permitted to go ahead with the impacts that it has. From that perspective, I think it is really important to say that is a mechanism to measure at an individual project or operational level, the delivery of a nature positive outcome.

Then the other thing I'd say, and I think Greg has put it well, is around Environment Information Australia, its reporting, and frankly, going right back to the start of the presentation where I talked about that environmental management, so not just regulation as Greg's pointed out, but also investment and other interventions, operational interventions, is undertaken across the range of governments in Australia. So at the federal level, at the state level, and the local level, and it will only be by all of those areas coming together that we are able to achieve a nature positive outcome given giving the complimentary but often varied responsibilities. That is another key reason why Environment Information Australia is so important because through things like the State of the Environment reporting, it will be looking at the system as a whole to determine that we are achieving a nature positive outcome, even though that is built on a range of different measures at all levels of government.

**Mahani Taylor:** Right down to the project level. Thank you, James.

All right. The next question. Can you provide more information about how communities will be involved in environmental decision-making in this new system? That is quite a broad question, but we might start with James on those approvals.

**James Tregurtha:** Sure. I am happy to start on that one as well. As I mentioned in the presentation, there will be a new National Environmental Standard, so, the new concept of national environmental standards, there will be a standard for community Consultation in relation to decision making through the regulatory system. What that Standard will do is oblige a proponent, prior to their submission to Environment Protection Australia, to go out to the community. That is quite a broad definition of



community. It includes both the immediate community, so people who are likely to be potentially affected by development because of their proximity, but also others in the community who have other concerns that may well be impacted by the development as well.

There will be an obligation on proponents to firstly identify affected members of the community and then to ensure that they effectively communicate their proposals with those members of the community in a manner that means the community can then provide their comments back into the proponent who is proposing to take a particular course of action.

Once that information is provided back by members of the community, as now, when proponents are undertaking an EIS [Environmental Impact Statement], there is an obligation on the proponent to review those comments, determine what issues have been raised, and then make a response to those comments. That will form part of the application submission to Environment Protection Australia. That submission into Environment Protection Australia will then be published. Environment Protection Australia will be publishing each application that it receives in full, so there is a further opportunity there for the community to see not just the issues that were raised, many of which were raised by the community, but also through those summary documents, how the developer has addressed each of the concerns that were raised in relation to the package that they provided to Environment Protection Australia.

**Mahani Taylor:** Thanks, James. Do either of the other panelists want to expand on that in terms of community engagement in other parts of the act?

**Greg Manning:** I can add just a little bit from the regional planning perspective. It is similar to what James was outlining, but certainly there will be an expectation. We expect it will be set out in the Standard for Regional Planning that planned and developed in consultation with the community, and this is where we have that intersect between the different Standards. So we would certainly pick up on the requirements of the Standard that James is referring to and ensuring that that is part of that process for developing the regional planning elements where that pathway's chosen as well.

**Mahani Taylor:** Great. Just to be clear, the community in this case is actually the public. It is anybody who has an interest in these projects or developments.

**Ilse Kiessling:** I can add to that a little too, Mahani, by saying that the expectations that we currently have around public consultation won't be lost in other elements of the legislation as well. An example of that is that we are required to allow for public consultation as part of the creation of recovery plans.

That will continue under the new legislation. It is not just through the environmental approvals and development approvals processes. There are also maintained expectations for public involvement in and contribution to the creation of our conservation documents. One example of that would be through the recovery strategy. We will need to consult with many people, states and territories, the threatened species, scientific community, as well as the public and importantly scientists and many others. That is all maintained through the new legislation as well.

**Mahani Taylor:** Thanks, Ilse. Community consultation throughout the act, a little bit like transparency in that the principle of publication is throughout the act as well.

All right. Next questions. What steps will be taken to ensure that recovery strategies don't duplicate state or territory approaches or plans?

**Ilse Kiessling:** Yeah. That is a really good question and that is part of the reforms that we don't often talk about actually. One of the elements of the reforms that we are proposing is that we work even more closely with states and territories in putting together our recovery strategies. We do that right now. There is a requirement that states and territories are part of the creation of conservation planning documents, and that will, as I said in the last response, that will continue into the future. What we will want to do in the future is to actually remove duplications. At the moment, if a state or territory prepares a conservation planning document for a threatened species in that jurisdiction, they can present that conservation planning document to us, and we then need to go through all of the same processes again in order to bring that conservation planning document into effect under our federal laws.

That feels like a wasted effort because all of the hard work has been done in many cases. What we are wanting to do is to actually make that process a lot simpler and to remove the duplication, so if the hard work has been done by a state or territory, we have a peer review process and an endorsement through our Threatened Species Scientific Committee before it would go to the Minister for a decision. There is a very strong focus here on not duplicating the processes that states and territories have, but at the same time reinforcing the work that they have done and actually making sure that we are driving towards much more consistent national protections for our species and ecological communities.

**Mahani Taylor:** Thanks, Ilse.

Alrighty. Next question is for Greg. How was 30% decided for the 30 by 30 target?

**Greg Manning:** Yeah, thanks Mahani. That is a great question. The 30 by 30 target, the origins of that is actually one of the 23 targets adopted as part of the update to the global biodiversity framework under the Convention on Biological Diversity. There was a conference of parties last December where the new global biodiversity framework was adopted by governments globally. That 30 by 30 target was one of 23 targets which were adopted under the parties to the Convention on Biological Diversity. That is the origins of it. Obviously, Australia has picked that up and we are doing the work towards that target ourselves, but in essence the answer to that question is that it originated as one of the 23 targets adopted under that global biodiversity framework.

**Mahani Taylor:** Excellent. Australia has got on board with that.

Fantastic. All right. The next question, how will compliance and enforcement work? There are few questions. Can the public contact the EPA to investigate if they think someone's doing the wrong thing?

**James Tregurtha:** That's one for me. Environment Protection Australia will become the primary compliance and enforcement operator for the Australian Government. In relation to environmental law, compliance and enforcement will be undertaken by the independent Environment Protection Australia. What are currently the compliance and enforcement staff that currently operate out of the Department of Climate Change Energy, the Environment and Water will move into Environment Protection Australia once that entity is created. That entity will have responsibility then for, as the name suggests, undertaking compliance in relation to Australia's national environmental laws, both where activities occur that should have received a permit or a licence or an approval and have not. So if you like, that front end of compliance, all the way through to ensuring that conditions of approvals are complied with, undertaking auditing obligations in relation to ensuring that conditions on a permit or a licence provided are undertaken correctly.

In relation to the capacity for the public to raise issues, absolutely. Environment Protection Australia will, through their compliance and enforcement area, also maintain a number of mechanisms to ensure that the public have an opportunity to be able to report what they consider to be activity that is in breach of one or many national environmental laws into EPA, who would then, make a determination about how to deal with those things when they are advised to them, including working closely with states and territories. I think it is important to call out that certainly the Commonwealth already works very closely with our state and territory counterparts in relation to compliance and enforcement when it comes to environmental regulation and management. That will continue. Clearly many, if not all of the

states have their own environment protection agencies as well, so certainly one of the things we will be working to do is ensure that the new Environment Protection Australia builds strong links into those environment protection agencies in states and territories as well as departments that are often responsible for planning regulations and other areas like that.

**Mahani Taylor:** Thanks, James. I have just been advised we are at over 370 questions. It seems likely we won't get to all of those in the next 15 minutes, but please continue to put your questions through and we will receive those and we will answer as many as we can now, but also through the Have Your Say platform as well. We do want to hear from all of you. The next question is, can you provide a little more detail—I think this is another one for James—about the assessment pathway for a case by case approval? In particular, how will it work without a controlled action decision?

**James Tregurtha:** I think this might be slightly one for the more detailed conscious people perhaps who are listening and watching today. But in essence, what we're proposing is that at that first self-assessment stage, a proponent will determine whether they are likely to have a significant impact on a nationally protected matter and go through a pathway whereby if that is unlikely, as I mentioned in my original presentation, they would be able to submit an application to have that confirmed by the EPA. Which is in effect for those of you who are familiar with the current EPBC [Environment Protection and Biodiversity Protection Act 1999] system, that is broadly analogous to the referral step in our current system because the referral step, in essence, in making a controlled action decision determines whether or not an approval is required under national environmental law. The same confirmation can be received through that low impact pathway.

The low impact pathway, however, it is important to be clear here, is not a pathway to gain approval for a decision, just a pathway to confirm that approval is not required. The standard pathway, if you like, is a pathway that we are constructing that ensures that you are able to move quickly through an assessment and then an approval in those circumstances where it is more than likely or certain that there will be a significant impact on a nationally protected matter. Of course, many of our developments across the country, some of the biggest infrastructure, mining, housing, commercial developments, it is clear from the outset that they are going to intersect with areas with nationally protected matters across those nine matters that I described in my presentation. In those circumstances, what we are aiming to do here is to introduce streamlining by not requiring a referral step, but rather ensuring that a proponent can from the outset do the assessment consultative work in conjunction with National

Environmental Standards that would otherwise be required of that project after a controlled action decision.

In effect, you can jump straight into the assessment and approval pathway rather than having to go through what would have been previously the controlled action decision. Then our current thinking technically is the matters that are being approved by the EPA will be determined at the same time the EPA is constructing its decision through that single process. Again, this is a key part of streamlining.

Just to give you a sense, maybe to spend slightly longer on this one, one of the reasons we are designing the system in this way is currently once a controlled action decision is in place, there is limited capacity for a proponent to change the design or the implications of their development because they are then consulting on a particular thing that has been, if you like, through an initial regulatory step. That reduces flexibility through the assessment pathway prior to getting to approval. What we are trying to do is increase the flexibility available in that assessment pathway. I should also say that that assessment pathway, in our experience, can take well over a year in many cases, particularly for complex developments. What we are trying to do is provide more flexibility about the steps in those pathways to be integrated into the design and development of a project, thereby ensuring we get better avoidance and mitigation and a quicker pathway through an equally robust approvals mechanism.

**Mahani Taylor:** Thank you, James.

All right. The next question said, in the presentation it was mentioned that irreversible damage to a World Heritage Property or a Ramsar wetland is not acceptable. Will National Heritage places also be protected in this way?

**James Tregurtha:** That's a good question. Yes, each of the matters of national environmental significance, we are currently undertaking consideration about what would constitute an unacceptable impact, and certainly irreversible damage and loss of those values, [is] certainly something we would equally be giving consideration to National Heritage sites as well as World Heritage sites and Ramsar sites. That is currently part of the work that is underway right now, thinking about what the definition of irreversible impacts is for those nationally protected matters that describe the thing that is being protected.

**Mahani Taylor:** Thanks, James, we haven't forgotten about National Heritage.

All right. The next one. Will the new laws allow coal and gas developments?

**James Tregurtha:** I think that is one for me again. The new Nature Positive laws and regulations will continue to apply to all forms of development, including coal and gas developments in the same way that the current EPBC Act laws apply across all of the range of developments now. It is important to note in this particular component of the conversation that the water trigger, which I mentioned in my presentation, is being expanded to all forms of unconventional gas development, in addition to the existing large coal and coal seam gas, which are part of that current water trigger. The laws will continue to apply and be implemented in the same way. If a coal or gas development is likely to have a significant impact on a nationally protected matter, they will have to go through the assessment and approval system, including notification of the emissions profiles that we spoke about in an earlier question to ensure that they comply with National Environmental Standards and move through an approval through the EPA's consideration of their application and approval decision.

**Mahani Taylor:** Thanks. No specific prohibition, just about the impacts.

All right. Next question. This is one for Ilse. How will critical protection areas be defined for a species?

**Ilse Kiessling:** Thanks, Mahani. That is another really important part of all of this. Critical protection areas are a new concept under the proposed reforms, but they build on existing approaches. Critical protection areas are those areas that contain habitats that are crucial, or indeed critical, to the ongoing survival of threatened species and ecological communities. Because they are all about the habitat of a species and they are all about how important that habitat is to a species, they will be defined through scientific investigation. It is about understanding the biology of a species. It is about understanding the ecological needs of a species. It is being able to actually define those habitat associations between a species, and where it lives, and what it feeds on, and where it roosts and all of these other sorts of things.

The short answer to that question is that critical protection areas will be defined and described scientifically. Where we have that information, because it is not in all cases that we have information, but where we do have that information, critical protection areas will be described and mapped in recovery strategies. They are the areas where essentially any sort of significant impact on that habitat would be considered to be unacceptable. They are very special and important areas that are fundamental to the ongoing survival of a species that will be described in recovery strategies, but they are all about the science of the species and the scientific association of that species and its habitat.

**Mahani Taylor:** Excellent. Thanks, Ilse.

All right. This is a good one. Will the new Nature Positive laws be subject to regular review? That is, we currently have 10-year reviews of the EPBC Act, will we have something similar?

**James Tregurtha:** Yes, we will. Certainly it's our intention to incorporate a regular review, independent review of the new Nature Positive laws when they are introduced. As you have pointed out, or the question has pointed out, at the moment that timeframe on those laws is 10 years. The EPBC Act, having been in place now for over 20 years, has had two of those reviews. The first by Dr. Allen Hawke and the second most recently by Professor Samuel. Yes, is the short answer. I think in relation to the timing for those reviews, we are still doing some work around thinking about it, but certainly no longer than 10 years, given how important it is to make sure that we are achieving nature positive outcomes and having an effective improvement in our environment, as Greg was talking about earlier.

**Mahani Taylor:** What about those National Environmental Standards?

**James Tregurtha:** Yeah. The Standards can also be subject to review. Again, we are thinking about having reviews of the National Environmental Standards. Our current proposition is that those would be reviewed no greater than on a five yearly basis, so there will be at least a five-year review on each of the National Environmental Standards, but indeed, a Minister for the Environment could cause a Standard to be reviewed in a much shorter timeframe than that because, for example, as a result of a bushfire or flooding event, it may be that the Minister for the Environment decides to review a particular Standard to incorporate some consideration about whether or not that Standard needs to be adjusted or is still effective given the nature of emergency events like that.

**Mahani Taylor:** Excellent. Thank you very much.

All right. Next question. This is another consultation question. Will there be consultation on the National Environmental Standards before introduction?

**James Tregurtha:** So those first six—the idea of national environmental standards—I think it is important to note that the first six National Environmental Standards, as I proposed and as I set out in my presentation, but there could be more National Environmental Standards in the future. For us it will be that those six drafts of those six National Environmental Standards will be made public and available prior to the introduction of the package to Parliament.

## **Slide 18: Thank you**

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**Mahani Taylor:** Thank you very much, James. I apologise I didn't alert people, but that was our last question.

Thank you very much for everyone attending today and for everyone who submitted questions into the panel. Please visit our EPBC reform webpage at the link [that's now displayed] for more information on the proposed reforms or to provide comments through our Have Your Say platform.

Thank you very much for your attention and thank you to the panel for all those questions. Thank you.

<Webinar close>

End of transcript