

11 November 2025

Chair
Senate Environment and Communications Legislation Committee
Parliament House
Canberra ACT 2600
Via: ec.sen@aph.gov.au

Submission to the Inquiry into the Environment Protection Reform Bill 2025

Dear Chair

Cement Concrete and Aggregates Australia (CCAA) welcomes the opportunity to contribute to the Senate Environment and Communications Legislation Committee's inquiry into the *Environment Protection Reform Bill 2025* and associated legislation.

CCAA is the voice of the heavy construction materials industry in Australia. CCAA members produce the majority of Australia's cement, concrete, and aggregates, which are crucial to Australia's building and construction sectors. These materials support the development of our nation's transport, energy, water, housing, defence, and social infrastructure.

The industry generates approximately \$15 Billion in annual revenues and employs approximately 30,000 Australians directly and a further 80,000 indirectly.

CCAA considers that the Bills can deliver stronger environmental protection and greater certainty for project proponents if supported by practical, proportionate and consistently applied implementation measures.

A summary of our sought improvements (in priority) follows:

1. Recognition of Key Resource Areas (KRAs) and State/Territory Equivalents as Development Zones

The proposed Commonwealth/ State regional plans must incorporate State-declared KRAs (and equivalents) as development-priority ("go") zones. This ensures long-term access to essential raw materials, alignment of Commonwealth and State frameworks, and avoidance of incompatible land use encroachment.

2. Clear, Measurable Definitions of "Unacceptable Impact", "Significant Impact" and "Residual Significant Impact"

Move the "Unacceptable Impact" and associated "Significant Impact" Assessment definitions and tests into the National Environmental Standards for clear calibration and easy review and amendment. Provide objective definitions and clear examples for these definitions to assist proponents and assessment agencies.

Clarify the relationship between "residual significant impacts" (the test for whether offsets are required) and "Significant impacts" (the test for whether a proposal is

considered) to ensure that manageable, offsetable residual impacts are not wrongly deemed “unacceptable,” preventing projects from being assessed. These definitions should be objective, consistently applied, and supported by guidance and examples.

3. Offsets and “Net gain”

Permit staged offset delivery aligned with progressive extraction and rehabilitation. Establish a national offset-banking or credit system consistent with that proposed in the *Nature Repair Market Act 2023*, creating a central registry of high-integrity offset sites or credits. Clarify how “net gain” is to be measured and allow a “modified net gain” or “no net loss” test where full overcompensation is infeasible, consistent with NSW and QLD practice.

4. Transitional Protections and Grandfathering

Confirm that existing approvals, referrals and conditions will remain in force, with new requirements applying only prospectively. This will protect multi-decade, staged projects (such as quarries) from retrospective disruption or re-referral requirements and provide investment certainty through transition.

5. Restoration of an Intermediate Assessment Pathway and Clarity on “Substantial Commencement”

Reinstate a medium-level assessment pathway (e.g, like the current Public Environment Report pathway) for moderate-impact projects.

Define “Substantially commenced” to include partial works, site establishment, or significant investment, ensuring continuity for staged developments and avoiding unnecessary re-referrals.

6. Clarity and Non-Duplication of Greenhouse Gas (GHG) Reporting

Ensure Section 84A GHG reporting aligns with, and does not duplicate, the NGER Scheme and Safeguard Mechanism. Adopt existing methodologies, define thresholds clearly, and confirm that GHG reporting is for transparency only — not an additional approval trigger — to avoid undue administrative burden.

7. NEPA EPO Powers and Procedural Fairness

Introduce statutory guardrails, merit review rights, proportionality tests, and defined time limits on NEPA’s Environment Protection Orders and audits. Establish clear qualifications and certification standards, for environmental auditors, and processes to agree on relevant documents and evidence.

8. NEPA Governance and Decision-Making Roles

Limit the remit of the NEPA to compliance, assurance, and enforcement — not policymaking or approval discretion.

Retain the Minister as the final decision-maker for approvals (where not under a bilateral agreement), while requiring clear, transparent criteria and public accountability where a Minister departs from independent NEPA advice. This will maintain confidence that decisions are based on evidence, not external influence, and reinforce integrity and transparency in environmental governance.

9. Implementation and continuous improvement

Embed co-design of the National Environmental Standards with industry, deliver targeted assessor training to ensure consistency and proportionality, and conduct post-implementation reviews to refine the system over time.

CCAA's full submission is provided overleaf and possible amendments to the Bill are contained in the **Attachment**.

We thank the Committee for the opportunity to contribute to this important reform process and would welcome the chance to appear at a public hearing to elaborate on these matters. I can be contacted via [REDACTED] and [REDACTED]

Yours sincerely



MICHAEL KILGARIFF
Chief Executive Officer

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1. About CCAA

CCAA is the voice of the heavy construction materials industry in Australia. CCAA members produce the majority of Australia's cement, concrete, and aggregates, which are crucial to Australia's building and construction sectors.

Our members produce the **cement, premixed concrete and quarry materials** that form the foundation of every road, bridge, tunnel, housing development, port, renewable energy project and water infrastructure system in the country. These essential materials are the literal building blocks of Australia's cities, towns and industries.

The industry:

- Directly employs more than **30,000 Australians** across regional and metropolitan areas.
- Supports over **110,000 indirect jobs** through logistics, construction, and manufacturing supply chains.
- Contributes significantly to national productivity, housing affordability, and sovereign construction capability.

Our members operate long-life, capital-intensive facilities — often over **30–50 years** — requiring coordinated Commonwealth, State and Local Government approvals. Many are strategically located near growth corridors and transport infrastructure, meaning even modest regulatory delays can ripple across housing delivery, infrastructure timelines and cost structures.

The industry also plays a critical role in Australia's **net-zero transition**, through:

- The production of **low-carbon cements and concretes**.
- The use of supplementary cementitious materials (SCMs) such as fly ash and slag.
- Progressive **rehabilitation of quarries** to create biodiversity and community assets.
- Continuous improvements in **energy efficiency and emissions reduction**.

Given this central role, environmental regulation — particularly under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) — directly affects Australia's ability to deliver infrastructure affordably and sustainably.

2. Introduction and Summary

CCAA supports the Government's commitment to modernising Australia's environmental laws through the *Environment Protection Reform Bill 2025* and associated legislation.

We believe the effectiveness of these reforms will depend not on legislative aspiration but on **implementation detail** — particularly how definitions, standards and assessment processes are framed, applied, and interpreted by regulators.

Our industry operates within **multiple overlapping approval systems** — Commonwealth, State, and Local — often assessing the same issues under different criteria. Without strong alignment and clearly defined responsibilities, the new Commonwealth system risks duplicating, rather than streamlining, environmental regulation.

This submission therefore focuses on **practical refinements** to ensure the new system achieves its aims of improving environmental outcomes, transparency, and accountability while avoiding duplication, regulatory overlap, and unnecessary delay.

3. CCAA's Guiding Principles

a) Clarity and Consistency:

National Environmental Standards and statutory definitions must be objective, measurable, and uniformly applied to avoid interpretive uncertainty between jurisdictions.

b) Practicality and Proportionality:

Assessment requirements and offsets must match the scale and risk of projects. Low-risk, well-understood activities (like quarry extensions) should not face the same burden as high-impact developments.

c) Certainty and Coordination:

Commonwealth and State processes must operate in a **single, integrated approvals pathway**. This includes recognising existing State regimes for impact assessment and offsets to prevent duplication.

d) Transparency and Accountability:

Decision-making should be timely, evidence-based, and subject to clear procedural fairness and merit review rights, ensuring confidence for proponents and communities alike.

4. Priority Issues and Recommendations

4.1 Recognition of Key Resource Areas (KRAs) and State/Territory Equivalent Development Zones

Context:

CCAA strongly supports early spatial planning to identify areas where development is appropriate and where environmental values require protection. However, it is vital that the new regional and bioregional planning framework recognises **Key Resource Areas (KRAs)** — mapped deposits of essential raw materials identified in State and Territory planning instruments (e.g., Queensland's *State Planning Policy* and *KRA Framework*).

KRAs protect strategic construction-material deposits from incompatible land uses (e.g. housing encroachment) and ensure long-term resource security for infrastructure and housing projects.

Recommendation:

- Require that Commonwealth guidance for accrediting regional plans **explicitly reference KRAs** and equivalent resource corridors as examples of “strategically significant supply zones.”
- Include a **mandatory consultation requirement** with State geological surveys and planning agencies during regional plan preparation.

- Encourage **joint Commonwealth–State mapping** of future supply corridors and transport logistics routes for critical construction materials.

Suggested amendment:

Insert a provision under the National Environmental Standard for Regional Planning requiring regional plans to “consider resource-security areas and existing State-declared Key Resource Areas when identifying development-priority zones.”

Rationale:

Recognising KRAs ensures consistency between jurisdictions, avoids sterilising critical resource areas, and supports affordable housing and infrastructure delivery — all while maintaining strong environmental safeguards through site-specific assessment.

4.2 Clear, Measurable Definitions of “Unacceptable Impact”, “Significant Impact” and “Residual Significant Impact”

Issue:

The Bill introduces new terms that will determine whether projects can proceed, require offsets, or be refused. Without objective criteria, these terms risk being applied inconsistently, leading to uncertainty and litigation.

For example, phrases like “seriously impair” or “irreplaceable damage” have **no measurable ecological threshold**, leaving proponents unable to predict outcomes. This uncertainty disproportionately affects long-life, moderate-impact industries like quarrying, where impacts are localised and well understood.

Recommendation:

- Finalise definitions through **co-design of the National Environmental Standards**, with participation from industry, ecologists, and legal experts.
- Incorporate **Population Viability Analysis (PVA)** or similar quantitative tools to assess species viability, allowing decisions to be based on measurable criteria.
- Develop a **public guidance document** differentiating:
 - “Unacceptable impacts” – effects that permanently and irreversibly compromise an MNES; and
 - “Residual Significant Impacts” – effects that remain after mitigation but can be offset.
- Mandate **training for NEPA and State assessors** in applying these definitions consistently.

Rationale:

Science-based definitions and consistent application will increase transparency, reduce the need for judicial interpretation, and allow faster defensible decision-making.

4.3 Offsets and “Net Gain”

Issue:

Offsets are a critical part of achieving environmental improvement while enabling development. However, the draft *National Environmental Standard for Offsets* risks imposing unrealistic obligations by requiring full up-front offset delivery and an undefined “net gain” standard.

This is **unworkable for staged operations** such as quarries, which progressively extract, rehabilitate and offset over decades. Requiring immediate offset delivery diverts capital from environmental management to compliance administration.

Recommendation:

- Define “net gain” in measurable ecological terms within the Standard, using biodiversity scoring or ecological equivalence metrics rather than percentage targets.
- Permit **staged offset delivery** tied to extraction or disturbance milestones.
- Establish a **national offset-credit registry** (integrated with the *Nature Repair Market Act 2023*) to facilitate credit trading and early offset investment.
- Recognise **regional equivalence** for offsets within the same bioregion rather than site-specific replacement.
- Adopt a **“modified net gain” or “no net loss”** test where full ecological replacement is technically infeasible.

Suggested addition:

Include a clause in the Standard stating: “Offset requirements may be staged in accordance with progressive rehabilitation schedules approved under accredited State environmental authorities.”

Rationale:

Aligning offset delivery with operational timelines provides environmental integrity without imposing unsustainable upfront costs. It also encourages early investment in offset creation and continuous site improvement.

4.4 Transitional Protections and Grandfathering

Issue:

The materials industry operates **multi-decade projects** that depend on stable regulatory settings. Transitional arrangements must guarantee that existing EPBC approvals, conditions and referrals continue unchanged through the reform period.

Recommendation:

- Insert an explicit **grandfathering clause** confirming that all existing EPBC approvals remain valid and enforceable until expiry.
- Include a transitional power allowing the Minister to **extend or revalidate “non-controlled action” decisions** delayed by factors outside the proponent’s control.

- Publish a **transitional guidance note** outlining which elements of the new framework apply to existing projects.

Rationale:

Codifying these assurances provides certainty for investors, protects ongoing operations from retrospective disruption, and supports confidence in the reform process.

4.5 Assessment Pathways and “Substantial Commencement”

Issue:

The removal of the *Public Environment Report (PER)* pathway removes a proportionate option for moderate-impact projects. For example, quarry expansions often sit between “low” and “high” impact levels — they warrant detailed assessment but not a full *Environmental Impact Statement (EIS)*.

Similarly, the proposed “substantial commencement” provision could unfairly penalise staged projects that progressively develop over decades.

Recommendation:

- Reinststate a **medium-tier (PER-type)** assessment pathway with defined triggers (e.g., moderate disturbance footprint, proven track record, or strong mitigation record).
- Develop **regulatory guidance** defining “substantial commencement” to include:
 - Site establishment or partial works;
 - Material capital investment; or
 - Ongoing progressive development consistent with approved stages.
- Require consultation with industry during drafting of this guidance.

Suggested amendment:

Add to the regulations under s.528: “An action shall be deemed substantially commenced where approved works have materially commenced or substantial financial or physical investment has occurred.”

Rationale:

A proportionate, risk-based pathway supports timely decision-making, reduces administrative burden, and reflects real-world project sequencing.

4.6 Greenhouse Gas Emissions Reporting

Issue:

While CCAA supports transparent reporting, duplication of existing frameworks (the *NGER Scheme* and *Safeguard Mechanism*) must be avoided.

Recommendation:

- Confirm that greenhouse gas reporting is **for transparency only** and not a new approval trigger.

- Explicitly adopt existing **NGER and Safeguard definitions, thresholds and methodologies**.
- Clarify reporting requirements by project phase (e.g., construction, operation).

Suggested amendment:

Insert into s.84A(3): “Reporting obligations under this section shall align with methodologies established under the *National Greenhouse and Energy Reporting Act 2007*.”

Rationale:

Alignment ensures administrative simplicity, credibility, and consistency across national emissions frameworks.

4.7 NEPA Environment Protection Orders (EPOs) and Procedural Fairness

Issue:

The Bill grants NEPA’s CEO broad powers to issue EPOs without defined criteria, expiry dates, or review rights. This creates risks of inconsistent or excessive enforcement actions that could delay projects.

Recommendation:

- Limit EPOs to cases of **material non-compliance** or **imminent environmental harm**.
- Impose **statutory time limits** (e.g., seven days, extendable by the Administrative Review Tribunal).
- Guarantee **procedural fairness**, including a right to respond before orders are finalised.
- Provide for **merit review** of EPOs through the Administrative Review Tribunal.

Rationale:

Checks and balances preserve regulatory integrity while protecting business confidence and the rule of law.

4.8 NEPA Governance and Decision-Making Roles

Issue:

CCAA supports NEPA as an independent environmental regulator, but accountability requires that the **Minister retains ultimate approval responsibility**. NEPA should focus on assurance and enforcement — not policy discretion.

Recommendation:

- Limit NEPA’s statutory remit to **compliance, assurance and enforcement functions**.
- Retain the Minister as final decision-maker and require public reporting where a Ministerial decision diverges from NEPA advice.
- Remove or amend clauses (e.g., s.84B) allowing NEPA to simultaneously assess and recommend project approvals.

Rationale:

A clear separation of roles prevents conflicts of interest, reinforces accountability, and ensures decisions remain transparent and democratically accountable.

5. Implementation and Continuous Improvement

To ensure effective implementation and enduring success:

- Establish a **co-design framework** for all National Environmental Standards, involving industry, scientists, and State governments.
- Deliver **targeted assessor training** to embed proportionality and consistency.
- Mandate a **post-implementation review** of the Standards within 24 months of commencement to refine thresholds and guidance.
- Develop an **online approvals dashboard** to track decision times, transparency, and compliance performance.

These practical measures will help ensure that legislative intent translates into consistent, real-world outcomes.

6. Conclusion

CCAA commends the Government's commitment to a modern, transparent, and effective environmental protection framework.

The *Environment Protection Reform Bill 2025* offers a once-in-a-generation opportunity to deliver stronger environmental safeguards while enabling Australia's construction, housing, and energy transition priorities.

By adopting the refinements proposed in this submission — clearer definitions, practical offsets policy, proportionate assessment pathways, and integrated governance — the Parliament can ensure the new system achieves its goal: a framework that is both environmentally credible and economically functional.

ATTACHMENT - Possible Legislative Amendments

Key resource areas - Item 323

Section 177AD – proposed section 177AD to be amended so that a key resource area recognised under the law of a State or Territory is taken to be a development zone.

Section 177AE – proposed section 177AE to be amended so that an action permitted to be taken in a key resource area recognised under the law of a State or Territory is taken to be a priority activity.

Unacceptable impact – Item 588

Item 588 should be amended so the terms “unacceptable impact”, “seriously impair” and “residual significant impact” and “significant impact” should be defined as having the definition prescribed for those terms in a National Environmental Standard.

At the very least, if the proposed definitional structure is to be retained, so as to provide a degree of objectivity, proposed new section 527H (definition of “seriously impair”) be amended to require either a regulations or a National Environment Standard be made to identify the manner by which a population viability analysis is to be conducted to determine whether something remains “viable”.

Qualifications of registered auditors – Item 550

A subparagraph should be added to paragraph 462G(2)(b) to require regulations to prescribe the qualifications to be held by a registered auditor.

Greenhouse gas emissions standards – items 191 and 616

An amendment to the proposed section 84A should be made so that for the purposes of the section a reasonable estimate of greenhouse gas emissions should be calculated using measurement methods prescribed by the NGER Act (currently the [National Greenhouse and Energy Reporting \(Measurement\) Determination 2008](#))

Section 528 of the Act should be amended so that Scope 1 and scope 2 emissions have the meaning prescribed in the Regulations. This is so any changes to the *National Greenhouse and Energy Reporting Act 2007* made as a result of any change to the concept of scope 1 and scope 2 emissions can be conveniently captured in the EPBC regulatory suite.

Item 616 – meaning of substantially commenced

Section 528 should be amended to include a definition for the Act providing that for the purposes of the Act the term “substantially commenced” includes where an action has materially commenced, or where substantial financial or physical investment has occurred to permit the action to commence.

Item 154 (Section 66) et.al – public environment report

All provisions omitting the Public Environment Report stream from the Act contained in the Bill should be removed and so reinstating this assessment stream.

Item 191 – Designated report writer for recommendation reports

Proposed paragraph 84B(b) should be removed so the CEO of NEPA may not be a designated report writer.

Item 551 – Environmental protection orders

Proposed section 474 should be amended to provide that an order cannot be any longer than (say) 14 days of duration unless extended by the Administrative Review Tribunal. For the avoidance of doubt, the legislation should make clear the requirements of the natural justice hearing rule should apply to any review or extension of an environment protection order.