

**Nature Positive Legislation - Inquiry into the
Nature Positive (Environment Information
Australia) Bill 2024 [Provisions] and related
bills**

**Senate Standing Committees on Environment
and Communications**

Submission by the
Invasive Species Council

July 2024

Document details

Invasive Species Council. 2024 Nature Positive Legislation - submission to inquiry into the Nature Positive (Environment Information Australia) Bill 2024 [Provisions] and related bills.

About the Invasive Species Council

The Invasive Species Council was formed in 2002 to advocate for stronger laws, policies and programs to keep Australian biodiversity safe from weeds, feral animals, exotic pathogens and other invaders. It is a not-for-profit charitable organisation, funded predominantly by donations from supporters and philanthropic organisations.

Intellectual property rights

© Invasive Species Council 2024

Unless otherwise noted, copyright and any other intellectual property rights in this publication are owned by the Invasive Species Council.



All material in this publication is licensed under a Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International License. Creative Commons Attribution 4.0 International Licence is a standard form licence agreement that allows you to copy, redistribute, remix, transmit and adapt this publication provided you attribute the work, you do not use it commercially and you distribute your contribution under this creative commons licence. The licence terms are available from <https://creativecommons.org/licenses/by-nc-sa/4.0/>.

Inquiries

Invasive Species Council

Contact: Advocacy Manager

Address: PO Box 818, Katoomba NSW 2780, Australia

ABN: 27 101 522 829

Web: invasives.org.au

Email: contact@invasives.org.au

Contents

Summary of Recommendations.....	1
Introduction.....	2
1. Assurance and oversight of conservation planning.....	3
2. The definition of Nature Positive.....	3
3. The independence of Environment Protection Australia.....	4
4. The functions of Environment Information Australia.....	4
5. Additional EPBC Act reforms.....	5

Summary of Recommendations

Recommendation 1: Include amendments which give the EPA a direct oversight and assurance role in reporting to parliament on the implementation of conservation planning instruments, including threat abatement plans, recovery plans and proposed recovery strategies.

Recommendation 2: Amend the definition for 'Nature Positive' under Section 6 of the EIA Bill to include the words 'measured against a 2020 baseline', to meet the international standard set in the Global Biodiversity Framework, of which Australia is a signatory.

Recommendation 3: Amend Section 6 - Definition of Nature Positive, subsection (2) of the EIA Bill to specify that 'species' are 'locally native species' or 'indigenous species' to make clear that invasive species don't count as increased diversity.

Recommendation 4: Amend Section 6 - Definition of Nature Positive, subsection (2) to include a reference to improvements in the abatement of threats.

Recommendations 5: Require a governing board of suitably qualified, independent people to appoint and oversee a skills-based EPA CEO, and play a role in setting the strategy of the EPA.

Recommendation 6: Amend Under Section 3 - Objects, subsection (c) to include 'government funded programs' (e.g. grants and procurement through third parties) in addition to government policies and programs.

Recommendation 7: Amend the functions conferred on the Head of the EIA (Section 11) to include:

- a) identify categories of environmental information held by governments that should be published in the public interest
- b) develop standards for the reporting of environmental information, including by the recipients of public funding for environmental projects
- c) identify priority gaps in environment data and information
- d) facilitate the timely addition to and correction of information and data used by the government

Recommendation 8: Under Section 16 - National Environment information assets, subsection (1) amend the word 'critical' to 'important'.

Recommendation 9: The Government should commit to pass the remaining stages of promised EPBC Act reforms before the end of the parliamentary term, and communicate its plan for delivery. This should include conservation planning reform, encompassing threat abatement and recovery planning instruments.

Introduction

The Invasive Species Council welcomes the opportunity to consult on the senate inquiry into the Nature Positive (Environment Protection Australia) Bill 2024, and Nature Positive (Environment Information Australia) Bill 2024.

We support the proposal to create Environment Information Australia (EIA) and a federal Environment Protection Agency (EPA) and would be pleased to provide further in-person evidence regarding this submission if it would assist the committee.

Australia is in the midst of an extinction crisis, and, as the Australian State of the Environment Report 2021 starkly outlined, our biodiversity is in rapid decline. Unless governments quickly commit to ambitious legislative reform, along with increased funding and efforts to abate the key threats bearing down on our biodiversity, we will continue along the trajectory of extinctions.

We are at a pivotal moment in history; and we have a once in a generation opportunity to create groundbreaking change through modern and effective nature protection laws.

The Invasive Species Council has developed the following submissions that are relevant to this inquiry, and will be particularly relevant during consultation for Stage 3:

- [Averting Extinctions: The case for strengthening Australia's threat abatement system](#)
- [Incorporating global biodiversity targets into Australia's Strategy for Nature](#)
- [Tackling invasive species threats through stronger national environmental laws](#)

This committee has held a number of recent inquiries which considered the dire need for legislative and systemic reform to turn around the current extinction trajectory. The committee is therefore well aware of the key pressures driving the poor state of Australia's environment, including the increasing pressures of invasive species which were the primary cause of all except one of the seven animal extinctions since 2000¹ and are currently the highest impact threat to threatened species.²

We have made 8 recommendations for consideration by the Committee regarding the proposed Nature Positive Bills to improve:

1. Assurance and oversight of conservation planning
2. The definition of Nature Positive
3. The independence of Environment Protection Australia
4. The functions of Environment Information Australia

We also encourage the Government to progress the remaining stages of promised EPBC Act reforms before the end of the parliamentary term. This should include conservation planning reform, encompassing threat abatement and recovery planning instruments, and live import functions.

¹ Northern tinker frog (chytrid fungus), white-chested white-eye (black rats), Christmas Island pipistrelle (wolf snake), Bramble Cay melomys (sea-level rise), Christmas Island forest skink (wolf snake), blue-tailed skink (extinct in the wild, wolf snake), Lister's gecko (extinct in the wild, wolf snake).

² Based on the number of high-impact and medium-impact threats to listed threatened species as analysed by Ward et al. 2021. <https://onlinelibrary.wiley.com/doi/full/10.1002/ece3.7920>

1. Assurance and oversight of conservation planning

There is a strong need for independent assurance of threat abatement and conservation planning implementation. One of the failures of the EPBC Act has been the lack of effective utilisation and implementation of the threat abatement planning frameworks, as highlighted by the Australian National Audit Office in 2022 which noted in its report:

‘The department does not currently track or support the implementation of most conservation plans, threat abatement plans or recovery plans by other Commonwealth entities, states and territories, or non-governmental groups and individuals.’³

This could be improved by expanding the proposed remit of the EPA to include an oversight role to evaluate and report to the Parliament (on an annual basis) regarding the implementation of conservation planning instruments, including threat abatement plans.

Ensuring that the EPA reports independently to parliament on the implementation of conservation planning instruments will ensure increased transparency and improved accountability of the conservation planning system.

Recommendation 1: Include amendments which give the EPA a direct oversight and assurance role in reporting to parliament on the implementation of conservation planning instruments, including threat abatement plans, recovery plans and proposed recovery strategies.

2. The definition of ‘nature positive’

Section 6 of the EIA Bill defines Nature Positive as ‘an improvement in the diversity, abundance, resilience and integrity of ecosystems from a baseline.’

We are concerned that this proposed definition of ‘Nature Positive’ is insufficient and inadequate without a clearly defined baseline year. 2020 is the baseline year used under the Global Biodiversity Framework, which Australia has signed on to, and we recommend this is specified in the legislation.

Recommendation 2: Amend the definition for ‘Nature Positive’ under Section 6 of the EIA Bill to include the words ‘measured against a 2020 baseline’, to meet the international standard set in the Global Biodiversity Framework, of which Australia is a signatory.

In determining whether nature positive is being achieved (Section 6(2)), the proposed legislation says that ‘regard is to be had to whether there has been an improvement in the diversity, abundance and resilience of species that form part of ecosystems’.

We are concerned that this does not specify that species should be native and locally appropriate and could be read to mean that invasive species count towards increased diversity.

³ (Australian National Audit Office 2022)

We also submit that this section could be improved by also including reference to the reduction of threats to that ecosystem and species (threat abatement).

To achieve an ongoing trajectory of Nature Positive requires not only a concerted focus on abating the threats currently manifesting in local declines but also on preventing the emergence and exacerbation of threats that will lead to worse biodiversity declines in future.

Many threats lead to impacts years or decades after they have been initiated, particularly climate change and invasive species. Any improvements to species diversity, abundance or resilience will be temporary unless the threats (e.g. invasive species) are mitigated.

Recommendation 3: Amend Section 6 - Definition of Nature Positive, subsection (2) of the EIA Bill to specify that 'species' are 'locally native species' or 'indigenous species' to make clear that invasive species don't count as increased diversity.

Recommendation 4: Amend Section 6 - Definition of Nature Positive, subsection (2) to include a reference to improvements in the abatement of threats.

3. The independence of Environment Protection Australia

The Invasive Species Council welcomes the commitment to the establishment of an EPA. This is an important institutional reform which could provide essential oversight of the implementation of federal environment laws and functions such as threat abatement and conservation planning.

While the commitment to this important reform is welcome, we are concerned that the proposed EPA is not clearly science based or adequately independent and that this will impact on its effectiveness.

We support amendments which improve independence and checks and balances including:

1. ensuring senior decision making delegated positions are independent, and
2. provisions for the appointment of an independent board
3. stronger means for non-compliance to be reported and addressed

Recommendations 5: Require a governing board of suitably qualified, independent people to appoint and oversee a skills-based EPA CEO, and play a role in setting the strategy of the EPA.

4. The functions of Environment Information Australia

The Invasive Species Council welcomes the commitment to the establishment of EIA. This is an important institutional reform which could enhance the capacity to effectively make management decisions on approvals relating to invasive species impacts on threatened species and communities, and conditions of approval.

A well resourced and empowered EIA will be essential to improving conservation in Australia, including through:

- Compiling data critical to identifying priorities for threat abatement
- Identifying emerging threats to nature
- Increasing our knowledge of the extent of invasive threats
- Improving monitoring and reporting on government-funded projects

We propose the following amendments to improve transparency and effectiveness of EIA:

Recommendation 6: Amend Under Section 3 - Objects, subsection (c) to include 'government funded programs' (e.g. grants and procurement through third parties) in addition to government policies and programs

Recommendation 7: Amend the functions conferred on the Head of the EIA (Section 11) to include:

- a) identify categories of environmental information held by governments that should be published in the public interest**
- b) develop standards for the reporting of environmental information, including by the recipients of public funding for environmental projects**
- c) identify priority gaps in environment data and information**
- d) facilitate the timely addition to and correction of information and data used by the government.**

Recommendation 8: Under Section 16 National Environment information assets, subsection (1) amend the word 'critical' to 'important'.

5. Additional EPBC Act reforms

We are concerned by the ongoing delays in the promised reforms to the EPBC Act and associated framework. It has now been four years since the Samuel review found the EPBC Act is 'ineffective and not fit for current or future environmental challenges'. It has also been 18 months since Environment Minister Tanya Plibersek stated that "Australia's environment laws are broken" and "if our laws don't change, our trajectory of environmental decline will not change either."

The Australian Government's important commitment to no new extinctions cannot be achieved unless the new environmental laws and associated framework has a stronger focus on protecting Australian species and places from invasive species – by stopping new invaders from arriving and establishing, preventing emerging invasive threats from becoming entrenched, and by abating entrenched threats.

Recommendation 9: The Government should commit to pass the remaining stages of promised EPBC Act reforms before the end of the parliamentary term, and communicate its plan for delivery. This should include conservation planning reform, encompassing threat abatement and recovery planning instruments, and live import functions.

References

- Australian National Audit Office 2022 - Management of Threatened Species and Ecological Communities under the Environment Protection and Biodiversity Conservation Act 1999 - https://www.anao.gov.au/sites/default/files/Auditor-General_Report_2021-22_19.pdf
- Hawke, Allan, 2009. Report of the Independent Review of the EPBC Act. <https://www.dcceew.gov.au/environment/epbc/our-role/review/epbc-review-2008>
- Samuel, Graeme. 2020. Independent Review of the EPBC Act - Final Report. <https://www.dcceew.gov.au/sites/default/files/documents/epbc-act-review-final-report-october-2020.pdf>
- Ward et al. 2021. A national-scale dataset for threats impacting Australia's imperiled flora and fauna, Ecology and Evolution <https://onlinelibrary.wiley.com/doi/full/10.1002/ece3.7920>