



1. Remove the discretionary powers that undermine the new rules that protect nature

What the laws need to do:	What's in the government's Bills:	ACF Assessment and necessary amendments:	
Introduce legally enforceable National Environmental Standards that set clear rules that protect nature that can never go backwards.	The government's Bills includes a <i>framework</i> for creating new standards and a non-regression principle, but it is unclear what the standards will cover and when they'll be developed is not specified.	<p>The framework for creating new standards and a non-regression principle is welcome.</p> <p>The government should commit to a set of initial Standards, and immediately release drafts of:</p> <ul style="list-style-type: none"> • Matters of National Environment Significance • Offsets • Community Engagement • First Nations Engagement <p>The Draft MNES standard has been released. Further nature protections are required.</p>	<p>Must be maintained</p> <p>Needs to be fixed</p>
Define 'unacceptable impacts' to ensure 'quick no's' for projects that negatively impact nature.	The Bills includes new legal definitions of unacceptable impacts and critical habitat.	The 'unacceptable impacts' and 'critical habitat' definition are welcome.	Must be maintained
Ensure decisions are based on clear rules and not the Environment Minister's discretion.	<p>The Minister would have power to make exemptions and approve projects on the basis of them being in the 'national interest'.</p> <p>A new requirement that the 'minister must be satisfied' that decisions under the EPBC Act are 'not inconsistent with' standards, unacceptable impacts and net gain tests. New power for the Minister to make binding rulings of the Ministers opinion on the Act's application.</p>	<p>Broad ministerial discretion was a key criticism by the Samuel Review of the existing Act. Unfortunately, the government's Bills further expand this discretion.</p> <p>National interest test and any associated approval should be limited to defence, security and natural disasters. Coal and gas should never be considered in the national interest.</p> <p>Remove the power to make rulings.</p> <p>Remove 'minister must be satisfied' discretion and require decisions 'to be consistent with' the nature protections in the Act and Standards.</p> <p>Clear, objective tests are needed for applying the Standards and other new nature protections, by the EPA.</p>	Step backwards
Ensure biodiversity offsets are a genuine last resort and do not undermine nature protection.	The Bills include new offset rules and a requirement for "net gain" for all approvals. But this is undermined by a "pay to destroy" fund (the Restoration Contributions Fund), which allows developers to pay money to the government instead of securing an offset. The Fund will not be bound by the same rules.	<p>Net gain is critical for the regeneration of nature.</p> <p>The mitigation hierarchy in the draft Offset Standard will help minimise damage to nature.</p> <p>Without strict constraints on the use of the Fund the Bills risk undermining nature protection rules, and must be amended to:</p> <ul style="list-style-type: none"> • Remove, or introduce stronger upfront restrictions on, the use of restoration contribution offsets. • Set stricter requirements for the Restoration Contributions Holder to spend restoration contribution charges consistent with the offset principles. • Embed transparency and accountability measures around offsets in the legislation 	<p>Must be maintained</p> <p>Step backwards</p>



What the laws need to do:	What's in the government's Bills:	ACF Assessment and necessary amendments:	
<p>Make nature protection a national responsibility.</p>	<p>The Bills allow the Environment Minister to accredit state and territory governments and state, territory and federal agencies to make approval decisions if they uphold all nature protections in the Act.</p> <p>The Bills remove the current limitation on including the water trigger in accredited agreements, meaning this responsibility could be devolved to the states and territory governments, or agencies.</p>	<p>ACF is opposed to handing over national environmental protections and decision-making to State and Territory governments, and agencies (see pt 4).</p> <p>ACF accepts States and Territory government's undertaking assessments with the following strict, transparent and enforceable safeguards:</p> <ul style="list-style-type: none"> • Ensure strong National Environmental Standards. • Ensure objective tests for accreditation and assurance via regular review by the EPA. • Ensure full public disclosure of any accreditation or any changes to the accredited systems. • No accreditation of non-state actors or non-legislative instruments. <p>NOPSEMA should not be accredited to make national environmental decisions. The federal government must retain responsibility to apply the water resources trigger on unconventional gas and large coal mining developments that may have a significant impact on a water resource.</p>	<p>Step backwards</p>

2. Close loopholes that allow rogue bulldozing of forests and bush

What the laws need to do:	What's in the government's Bills:	ACF Assessment and necessary amendments:	
<p>National nature laws must apply to native forest logging</p>	<p>The Bills maintain the Regional Forest Agreement exemption which allows native forest logging to occur without being subject to national nature protection laws.</p>	<p>The Bills must be amended to apply national nature laws to native forest logging and protect critical habitat.</p>	<p>Needs to be fixed</p>
<p>National nature laws must apply to deforestation for agriculture</p>	<p>The Bills maintain the 'continuous use exemption' that allows activities that were occurring before the year 2000, like deforestation for agriculture, to continue without assessments of their environmental impacts.</p>	<p>The Bills must remove the 'continuous use exemption' to stop landholders from bulldozing vast areas of the bush without assessment. This is the very thing the laws are meant to prevent.</p>	<p>Needs to be fixed</p>

3. Stop climate damage

What the laws need to do:	What's in the government's Bills:	ACF Assessment and necessary amendments:	
<p>Ensure all projects are assessed on climate impacts before approval.</p>	<p>The Bills do nothing to require climate change to be considered in decisions under the Act.</p> <p>The bills require project proponents to disclose scope 1 & 2 but not scope 3 emissions, but there is no proposal for this information to be taken into account in assessments and decisions.</p>	<p>Climate change is one of the biggest threats to the Matters of National Environmental Significance the Act is supposed to protect.</p> <p>The Bills must:</p> <ul style="list-style-type: none"> • Require decision makers to consider the impacts of climate change on nature when assessing projects. • Require project proponents to disclose Scope 3 emissions, which are the emissions that have the biggest impact on nature. 	<p>Needs to be fixed</p>



4. Guarantee independent, federal decision-making

What the laws need to do:	What's in the government's Bills:	ACF Assessment and necessary amendments:	
<p>Establish independent, well-resourced national regulator to ensure that assessments and decisions are taken free from political interference and provide oversight of standards implementation.</p>	<p>Bills create a national Environment Protection Agency (EPA).</p> <p>The EPA will lead compliance and enforcement of the Act with increased compliance powers and penalties and be a delegated decision-maker for project approvals.</p>	<p>The national EPA, with increased compliance powers and penalties, is welcome.</p>	<p>Must be maintained</p>
		<p>The national EPA should be the default decision-maker on project approval decisions - the Minister should only be permitted to intervene in exceptional circumstances.</p>	<p>Needs to be fixed</p>
<p>Ensure fair and transparent assessment processes for projects with meaningful community consultation.</p>	<p>The new streamlined assessment and approval pathway removes already limited opportunities for public scrutiny of decisions, reduces transparency, and creates integrity risks.</p> <p>Consultation obligations for other decisions missing or limited.</p>	<p>The Bills must be amended to ensure that the streamlined assessment process is only used for low impact proposals and includes meaningful disclosure and public consultation. Coal and gas projects should not access this pathway.</p>	<p>Step backwards</p>
		<p>Reforms must include standards that guarantee community consultation and engagement for assessments.</p>	

5. Back First Nations participation and recognition

What the laws need to do:	What's in the government's Bills:	ACF Assessment and necessary amendments:	
<p>First Nations rights are protected and First Nations communities are properly engaged in decisions</p>	<p>Government has committed to develop a First Nations Engagement Standard.</p> <p>Increased functions for the existing Indigenous Advisory Committee to advise on listings and plans.</p>	<p>ACF supports the commitment to develop a First Nations Engagement Standard. We also support proposed reforms to strengthen recognition of the role of the Indigenous Advisory Committee, and to ensure that this Committee is engaged in decisions in relation to listings and recovery planning. The Committee's role in other decisions should also be considered.</p>	<p>Needs to be fixed</p>
		<p>ACF urges the Parliament to seek the views of First Nations representatives on these matters and on the reforms generally.</p>	