50 Camberwell Road Hawthorn East VIC 3123

13 October 2026

Environment Law Reform Taskforce
Department of Climate Change, Energy, the Environment and Water (DCCEEW)
Commonwealth Government
Lodged online at: DCCEEW Consultation hub

Dear Taskforce,

Response to the Commonwealth Government's consultation on Exposure Draft Environment Protection and Biodiversity Conservation Amendment (2026 Measures No 2) Regulations 2026

The Clean Energy Investor Group (CEIG) welcomes the opportunity to make a submission on the Commonwealth Government's consultation on *Exposure Draft Environmental Protection and Biodiversity Conservation Amendment (2026 Measures No 2) Regulations 2026* (the Exposure Regulations).

CEIG represents domestic and global renewable energy developers and investors, with approximately 18GW of renewable energy capacity in the NEM across 139 power stations and a combined portfolio of more than $14 billion. CEIG strongly advocates for an efficient transition to a clean energy future on behalf of the investors who will provide the low-cost capital required for this transition.

Key points

- While the Exposure Regulations provide welcome updates and clarity to the content of referral information required for projects, including for proponents seeking the 'streamlined assessment' pathway, we maintain our strong view that sector-specific assessment pathway guidance is provided for the renewable energy sector.
- Language including 'provide information' and 'provide detail' remains subjective and open to interpretation by both proponents and assessors. What constitutes sufficient information could be set out in new regulatory tools such as rulings.
- NEPA resourcing is critical to the success of proponent eligibility for the streamlined assessment pathway. Critical resourcing is required for:
    - appropriately experienced assessors who understand renewable energy development and the interaction of MNES with different renewable energy technologies

- pre-referral support for proponents to clearly understand when the appropriate amount of assessment material meets the criteria set out in the amended Regulations
- some renewable energy developments particularly onshore and offshore wind farms, sector-specific development and assessment guidance will be critical to assist proponents and consultants in successfully meeting streamlined assessment pathway criteria

UPDATED REFERRAL INFORMATION AND CRITERIA FOR STREAMLINED ASSESSMENT PATHWAY

CEIG has consistently advocated for the EPBC Act reforms to deliver clarity, efficiency, predictability and stability in the assessment and approvals of clean energy projects. Our recent report, *Implementing the EPBC Act: recommendations to support better, faster decisions for renewable energy projects*,[1] made recommendations for Government, National EPA and the Department of Climate Change, Energy, the Environment and Water (DCCEEW) with respect to the assessment of renewable energy projects under the new EPBC Act framework.

Key to the success of implementing the reforms is, as our report highlights, that the National EPA (NEPA) develop 'one view' on the approach to renewable energy project assessment and project conditioning. The experience of renewable energy proponents, particularly wind farms, is that assessors in DCCEEW have inconsistently applied guidance material and have taken an unduly conservative and risk-averse approach to assessments. This appears to industry as a regulatory focus on uncertainty rather than ecological risk, which is backed by the results of DCCEEW's 2026 Capability Review which identified that over half of staff said that the Department's risk appetite is a barrier to performing at their best.[2]

The opportunity for the NEPA, then, is to deliver the promise inherent in the introduction of the new streamlined assessment pathway so that 'decision-ready' projects are predictably eligible for a shorter assessment timeframe. This will require a 'one view' approach that ensures consistency, predictability and certainty of assessment process and outcome.

Amendments made to the Exposure Regulations setting out information required for referrals is welcomed by CEIG. The amendments generally provide clarity and

[1] *Implementing the EPBC Act: Recommendations to support better, faster decisions for renewable energy projects*, Clean Energy Investor Group. Available at: https://www.ceig.org.au/implementing-the-epbc-act/.
[2] *Capability Review*, Department of Climate Change, Energy, the Environment and Water. Available at: https://www.dcceew.gov.au/about/reporting/capability-review.

transparency on the information required by the National EPA to support project development and application for approval. However, we hold residual concerns about the potential for subjective interpretation of criteria provisions in amendments to Parts 2 and 4, and Schedule 2 of the Exposure Regulations by NEPA assessors, particularly given the policy intention of DCCEEW that the Regulations will provide a 'check list' for proponents and assessors alike.

Our concerns predominately relate to the following.

- **NEPA resourcing to support proponents in pre-referral**. The current process is that proponents can request a pre-referral meeting with the NEPA prior to lodging their referral request. In these meetings, the proponents outline the project, flag impacts to Matters of National Environmental Significance (MNES), and seek to engage the regulators in attendance on their concerns or questions about the impacts to MNES. In circumstances where a proponent wants to achieve a streamlined assessment pathway determination, additional pre-referral support within NEPA should be available to assist proponents to work through any challenges or potential barriers prior to referral.
- **Assessment pathway criteria are still open to subjective interpretation.** Where language in Schedule 2 of the Exposure Regulations is subjective or does not prescribe what an appropriate level of 'evidence', 'detail' or 'information' is, proponents should have access to guidance from the NEPA, preferably during pre-referral support, to be confident that the amount of detail and information they accumulate is sufficient to meet the assessment criteria. This is especially important for less well understood species potentially at risk from a renewable energy project.
- **Clarity as to what constitutes 'minor information gaps'**. We support a process whereby proponents indicate their preferred assessment pathway based on the amount of information they provide at referral. However without additional NEPA support in pre-referral, it is unclear when the NEPA might determine that the 'preliminary documentation' pathway is appropriate because there is a 'minor information gap'. Clarity on what constitutes a minor information gap is essential.
- **Limitation on Environmental Impact Statement (EIS) determinations**. In circumstances where a proponent has attempted to avoid information gaps in their referral, but the NEPA has determined that an EIS pathway is required, it is important that the EIS pathway is limited to those aspects of the application that require additional information. Ideally, this would be limited to particularly poorly understood species. In order to ensure efficiency of process, EIS criteria should avoid subjecting the proponent to unnecessary surveys and assessments on matters for which there is sufficient information to make a decision.

- **NEPA's willingness to accept detailed management plans**. For many renewable energy projects, particularly wind farms, residual uncertainties about impact cannot be resolved until the wind farm is operational. In circumstances where a proponent has provided typically sufficient information – for example, 12 months of seasonal flora and fauna site surveying – but uncertainties exist, this uncertainty can be managed through detailed environmental management plans that set out clear and robust monitoring schedules and avoidance, mitigation and adaptive management actions and strategies. The National EPA must provide certainty that it will accept detailed management plans in lieu of requiring additional surveying and assessment.
- **Consistency in NEPA approach to assessment**. Renewable energy proponents must be assured that the NEPA will genuinely apply the amended criteria set out in Schedule 2 of Exposure Regulations as a 'check list'. Internal assessment approaches, including for less well understood and critically endangered species, must be repeatable, consistent, and most importantly, transparent.

The imperative for sector-specific guidance

CEIG has consistently advocated for sector-specific guidance material to support renewable energy proponents and their consultants in the planning stage of development. While new protection statements are prepared, and assessment instruments are likely to arise from research undertaken through the multi-million-dollar Renewable and Environment Research Initiative (RERI), the renewable energy sector – particularly the onshore and offshore wind sectors - is uncertain as to what those instruments will be and how they will be applied consistently by NEPA in the assessment of projects. As mentioned above, it is still open to the National EPA to subjectively and inconsistently interpret when detail and information is sufficient to satisfy referral criteria and achieve the streamlined assessment pathway.

To support renewable energy proponents in the preparation of assessment materials required to satisfy the criteria set out in Schedule 2 of the Exposure Regulations, we strongly reiterate the critical need for sector-specific guidance for different renewable energy technologies.

This guidance material can assist in clarifying how the NEPA will consistently and predictably approach assessment of renewable energy projects, and provide transparency in the amount of information required to satisfy the criteria for a 'streamlined assessment' pathway determination. It could also clarify issues such as:

- when and how to seek pre-referral support;
- what information is required to satisfactorily demonstrate application of the mitigation hierarchy and other Principles set out in the National Environmental

Standard (Matters of National Environmental Significance) for relevant at-risk MNES. This would include clarity on when 'repair' measures are deemed successful, particularly where rehabilitation of disturbed land is routinely undertaken at renewable energy sites such as wind farms;

- how to achieve a 'net gain' outcome for environmental offsets, particularly to those proponents seeking to deliver offsets through restoration contributions; and
- how to avoid information gaps.

Ultimately, sector-specific guidance and NEPA support will go a long way to supporting the renewable energy sector to predictably achieve their nominated assessment pathway, and assist the NEPA in achieving a consistent 'one view' approach to assessment.

Further suggestions

There are a number of further drafting suggestions CEIG has identified, set out in the table below.

Table 1: Suggested further drafting changes		
Exposure Regulations	**Suggested amendment**	**Justification**
Schedule 2, Cl 5.05	'A map, or series of maps, of the affected area...'	Maps for some projects that were to include multiple criteria set out in clauses 5.05 and 5.06 would be unreadable. Where the information can be conveyed clearly in a series of maps, this should be available to the proponent.
Schedule 2, Cl 7.01	'For information given under items 5 and 6...' Generally, the first line of 7.01 before subclause (a) could be clarified.	Presumably both provisions 5 and 6 apply, not one or the other.
Schedule 2, Part 2, Cl 10.01(b)(i)	Include suggestions as to what 'the history of each of its executive officers in relation	Not clear how broad this is. If it's limited to fines, prosecutions, or other enforcement or accountability

	to environmental matters' means.	measures that the executive officer has been required to undertake, then the Regulations should make this clear.

Restoration actions delivered by the Restoration Contributions Holder

CEIG generally supports the introduction of new Part 12D to the Regulations setting out how the Restoration Contributions Holder uses restoration contributions to deliver restoration actions. We welcome the opportunity for renewable energy proponents to have the option to propose restoration contributions, noting that the cost and details regarding contributions will be outlined in the finalised Restoration Contributions Calculator and in the enacted *Environment Protection and Biodiversity Conservation (Restoration Charge Imposition) Act 2025*.

CEIG thanks the Commonwealth Government for the opportunity to provide feedback on its consultation on the Exposure Regulations and looks forward to continued engagement on those issues. We would be happy to discuss any elements of this submission.

Yours sincerely,

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