

19 July 2022

EPBC Act in need of fundamental and incremental reform

The 2021 State of the Environment Report (**SoE Report**), released today by the Hon Tanya Plibersek MP, Minister for the Environment and Water, found the health of Australia's environment is poor and in a deteriorating state due to the pressures of climate change, mining, pollution, invasive species and habitat loss.

“This report highlights the urgent need to take decisive steps to restore the health of our environment,” Law Council of Australia President, Mr Tass Liveris said. “An immediate action should be a full and comprehensive response to the independent statutory review of the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**EPBC Act**) conducted by Professor Graeme Samuel AC in 2019 and 2020.”

The Final Report of the Independent Review of the EPBC Act (**Samuel Report**) provided to the Australian Government in October 2020 found that the EPBC Act – an Act with the object of protecting the environment and promoting the conservation of biodiversity – is ineffective and that good outcomes for the environment cannot be achieved under the current laws.

The Law Council is encouraged by the Minister's commitment to respond to the Samuel Report this year and emphasises the need to implement the Report recommendations in full.

“The Samuel Report made 38 highly interconnected recommendations and set out a pathway to reform in three tranches,” Mr Liveris said.

“Key pillars of the Samuel Report requiring immediate implementation are the development of enforceable national environmental standards and the establishment of an independent oversight body for the EPBC Act. The Australian Government should develop and undertake public consultation on a full suite of National Environmental Standards starting with the thirteen detailed standards developed by Professor Samuel and legislate for the oversight body. The Australian Government has an important opportunity to achieve national compliance with its broad range of international obligations through amendments to the EPBC Act.”

Both the Samuel Report and the SoE Report refer to the damaging impact of climate change on the state of the environment, underlining the need for the development approval and other processes established by the EPBC Act to acknowledge and account for the impact of climate change on the matters of national environmental significance that it protects.

While the Australian Government's commitment to decarbonisation of the economy and increasing the focus on reducing Australia's emissions is commendable, this will have an immediate impact on the natural environment through increased mining activity for critical minerals needed for renewable energy and through the construction and operation of renewable energy projects. A robust and reformed EPBC Act is needed to ensure that the right balance is achieved in the interests of the environment, business and the community.

The Law Council's [Climate Change Policy](#) sets out principles for the development and reform of laws which respond to the impact of climate change and these principles should be taken into account in reforming the EPBC Act.

Contact: Kristen Connell, P. 0400 054 227, E. kristen@talkforcemedia.com.au

The Law Council of Australia is the national voice of the legal profession, promoting justice and the rule of law.