5 June 2026

Jennifer Kay
Division Head, Environment Law Reform Taskforce
Department of Climate Change, Energy, the Environment and Water
John Gorton Building, King Edward Terrace
Parkes ACT 2600

Dear Jennifer,

The Smart Energy Council (SEC) welcomes the opportunity to provide a policy submission regarding the Department of Climate Change, Energy, the Environment and Water's (DCCEEW) public consultation on the Environment Protection Reforms: Subordinate Legislation. This package of draft rules, regulations and priority national environmental standards provides an important opportunity to develop a predictable, streamlined environmental framework that can successfully unlock the scale and speed of clean energy deployment required to meet Australia's international climate commitments.

The SEC is Australia's peak independent body for the renewable energy, energy storage and smart transport industries, representing over 700 residential, commercial and large-scale clean energy member companies across the nation. Our diverse membership spans project developers, technology manufacturers, green financiers and technical advisers, all committed to delivering low-cost, reliable and decarbonised energy systems.

The SEC generally supports the proposed subordinate legislation framework to establish clear nature-positive benchmarks and modernise compliance administration. Aligning regulatory guidelines across jurisdictions is vital to accelerating Australia's transition to a high-renewables grid and addressing the climate crisis. However, the practical operational rules must be carefully calibrated to ensure that high-level environmental objectives do not inadvertently introduce administrative roadblocks or investment uncertainty that delays urgent clean energy infrastructure.

While shifting the definition of *net gain* from rigid regulations to updated guidance materials offers helpful administrative flexibility across project-level and landscape-scale approvals, the lack of a prescribed statutory definition introduces a significant commercial risk for renewable energy developers due to the potential for inconsistent interpretation during assessment. To resolve this, we recommend that the Department finalise and publish comprehensive net gain guidance for public review before the standards go live.

The advanced offsets mechanism provides welcome surety for developers wishing to commence ecological work prior to final project approval, however, the current draft's baseline year requirements introduce severe practical complications for developers who already hold project land. This complexity is exacerbated by drafting ambiguity within Principle 8 regarding offset commencement prior to impact. It remains unclear whether a committed plan and timeframe alone satisfy appropriate evidence when land tenure cannot yet be legally secured, creating a major bottleneck for large-scale renewable projects with long lead times. The SEC recommends refining the drafting of Principle 8 to explicitly confirm that a committed plan with clear milestones and evidence of activity underway is sufficient to satisfy the commencement threshold.

Similarly, the preconditions for the newly established public offsets register must be flexible. Requiring finalised tenure or completed works upfront will undermine the agility that the advanced offsets framework is intended to deliver to the market. Where clean energy projects utilise a combination of direct offsetting and fund-based restoration contributions, the existing calculation tools for threatened species and ecological communities frequently suffer from low statistical power in remote regional deployment zones. Relying solely on these calculators risks stalling vital generation and storage assets due to sparse regional population data. The subordinate rules must therefore build in clear, evidence-based flexibility provisions for the assessment process to leverage alternative data approaches when traditional calculators prove inadequate.

The SEC remains available to provide further evidence, technical input or stakeholder connections to support the Department. Should you wish to discuss this submission further, please do not hesitate to contact:

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