

Final Print



**NSW Youth Parliament**

# **Environmental ‘Duty of Care’ Youth Act 2025**

Bill Proposed By: Environmental Sustainability Committee

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I certify that this public Bill, which originated in the Youth Legislative Assembly, has finally passed the Youth Legislative Assembly of New South Wales.

Hamani Tanginoa, Youth Parliament Coordinator



**NSW Youth Parliament**

## **Environmental 'Duty of Care' Youth Bill 2025**

Act no. 9, 2025

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### **A Bill for**

An Act to ensure the viability and sustainability of the natural environment for future generations, and to hold corporations financially and ethically accountable over their environmental jurisdiction, and other purposes.

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I have examined this bill and find it to correspond in all respects with the bill as finally passed by the Youth Legislative Assembly.

Lian Sequeira, Youth Governor of the NSW Youth Parliament

## Explanatory Note

### Summary

The object of the *Environmental 'Duty of Care' NSW Youth Bill 2025* is to highlight the inconsistencies that exist within corporate environmental compliance and true duty of care towards the environment. It seeks to move beyond box-ticking and minimum legal standards by emphasising the ethical responsibility companies hold to prevent environmental harm. This proposed legislation works to ensure that corporations and individuals alike are held accountable for the impact of their actions on ecosystems, communities, and future generations.

This Bill comes at a time where climate change is having increasingly significant impacts in Australia, in the Pacific region, and across the globe. Records for highest temperatures, most intense bushfires, most severe floods, and most costly natural disasters are being broken regularly. In developing this Bill, it became clear that large corporations often use voluntary sustainability claims and weak regulatory frameworks to mask ongoing environmental damage, particularly in NSW waterways, habitats, and urban spaces. Young people are calling for stronger and more reliable protections, and this Bill reflects this growing demand for accountability, sustainability, and genuine corporate responsibility.

This bill aims to introduce a proactive legal framework that ensures corporations and developers operating in NSW are held responsible for the environmental consequences of their actions. The Bill establishes a statutory duty of care, requiring all corporations to actively prevent environmental harm, rather than relying on after-the-fact remediation. It will shift environmental responsibility from voluntary action to an enforceable duty of care, making it clear that protecting the environment is not optional but a requirement, closing gaps that currently allow corporations to prioritise profit over environmental protection.

Overall, the bill seeks to instil a legal obligation for businesses to ensure a greater overall protection of the environment, safeguarding current and future generations alike by protecting them from further environmental harm caused by corporations.

### Overview of Provisions

**Part 1** sets out the short title, commencement, objects and definitions of the act.

**Part 2** details the nature of Annual Environmental Accountability Reports and the consequences for businesses who fail to follow the rules outlined by the act.

**Part 3** outlines environmental protections relating to urban development and “smart growth” systems, including increased autonomy for planning by local councils.

**Part 4** outlines Marine and waterways protections and the penalties for damage to the marine environment.

**Part 5** outlines the protection of wildlife across NSW, including changes to planning permission and reports to better protect all wildlife.

**Part 6** details the increased funding measures to help the NSW EPA carry out its new tasks outlined under the act.

**Part 7** outlines new air quality protections to ensure pollutants are controlled, particularly around certain at-risk areas.

**Part 8** seeks to ensure that First Nations people are consulted and accounted for when projects and environmental protections are being discussed.

**Part 9** details new changes to education surrounding environmental protection and duty of care, highlighting the need for ongoing environmental conservation.

## Rationale

This Bill seeks to address an issue persistent across all aspects of environmental sustainability. This being the failure of large businesses and corporations to uphold their duty of care towards the environment. The lack of corporate accountability has resulted in irreversible damage to the environment. The report, *Children's Right to a Healthy Environment: An Australian Perspective 2023*, found that 9 out of 10 young Australians aged 13-24 believe they have a right to a healthy environment, showing strong support for environmental protection. This Bill will attempt to protect all aspects of Australia's natural and urban environments, including its marine life and waterways, animal habitats, atmosphere, and urban developments from environmental negligence by corporations that prioritise profit maximisation.

Big businesses such as coal and gas extractors (Santos, Woodside, BHP, Hancock Prospecting) deteriorate the natural environment by extracting finite natural resources and exporting them overseas, raising huge profits and paying minimal tax. Gross operating profits in the mining industry reached \$295 billion in 2022. Whereas, the Australian government collects more money from student Higher Education Contributions (HECS) repayments than it does from the Petroleum Resource Rent Tax (PRRT), which is levied on the fossil fuel industry. In 2022-23, HECS/HELP repayments generated \$4.9 billion, while PRRT revenue was \$2.3 billion. The areas of environmental destruction that result from the operation of these companies are immense. These corporations attempt to mend their unethical environmental wrongdoing through Australia's carbon offset system, the Australian Carbon Credit Union (ACCU). To offset carbon emissions gained elsewhere, businesses can earn ACCUs by undertaking projects that reduce greenhouse gas emissions, such as reforestation, improved land management, or methane capture. This aids corporations in achieving 'net zero' targets, creating the illusion that their operations do not involve irreversible environmental trauma. However, research by eleven academics has revealed that many offset projects, particularly those involved with human-induced regeneration, such as pledges to regenerate outback forests through afforestation, have failed to achieve promised environmental targets, as tree cover has not increased from 2015-2022. In an analysis of 182 projects, 80% of them had not improved tree growth or had reversed progress. Academics concluded that polluting companies that bought these offset carbon credits had not reduced their impact on the environment as promised. The failure of corporations to consider how irresponsible environmental actions will negatively impact future generations who will live with these negative impacts is selfish. These companies must be fined, regulated and forced to act ethically and consider the welfare of young people.

Waterways are some of the most crucial aspects of the natural environment, serving not only as habitats for diverse ecosystems but also playing a vital role in public health as well as social and commercial uses. However, these systems are increasingly at risk due to inadequate corporate accountability and high levels of oversight regarding regulations. The industrialisation of waterways and increased industrial activities have significantly impacted water quality across NSW. For instance, the NSW Department of Primary Industries reports that land use changes have led to increased sediment, nutrients, and pollutants entering streams, contributing to the decline of fish populations and degrading the health and biodiversity of vital aquatic ecosystems. International examples demonstrate that environmental duty of care laws can be highly effective, especially regarding corporations. The EU's Environmental Liability Directive (2004/35/EC) holds companies responsible for remediation, improving compliance without harming economic activity. Under this law, businesses that pollute rivers, coastlines, or marine habitats are required to undertake and fund full-scale remediation. These frameworks have successfully driven stronger

compliance, improved environmental outcomes, and demonstrated that corporate accountability can be enforced without compromising economic activity.

Australia's need to cut carbon emissions has been clear for decades, but further action is essential to protect both the environment and public health. Air pollution each year causes the deaths of 3,200 Australians and a cost estimated at \$6.2 billion. Corporations must be held accountable for their stake in this tragedy. Many companies continue to ignore the damage caused by high emissions. A lack of action by industry groups and previous governments has led to companies that own non-road diesel engines, used in mining and even electricity generators, to increase carbon emissions from the source by an estimated 27%. With non-road diesel engines producing up to 5% of Australia's carbon emissions, this highlights the need for stronger regulations to stop this ongoing harm and hold companies accountable.

Continual habitat degradation is likely if changes are not made to State or Federal legislation. This is seen in the case *EPA v Forestry Corporation of NSW [2024] NSWLEC*, where the Forestry Corporation of NSW was fined \$360,000 in the Land and Environment Court for illegally demolishing 53 Eucalyptus trees, an inadequate penalty that fails to deter future violations. This is a continuous issue, seen in a Victorian case where a man was only fined \$79,000 for 5 counts of animal abuse against Koalas. Koalas alone, according to the study *The Economic Value of the Koala (2014)*, generated \$3.2 billion for the Australian economy, demonstrating the importance of our native wildlife's economic and ecological value and the need to protect it from threats posed by corporations.

Australia is undergoing unprecedented urban expansion. Capital cities grew by 430,000 in 2023–24, highlighting the urgent need for urban planning reform. As land in ideal locations becomes scarcer, businesses increasingly disregard zoning laws and environmental impacts. The *Pelican Links Case (2004-2008)* is an early example. The case involved the pre-emptive clearing of a wetland area near Caloundra in South-East Queensland from developers who wanted to construct a new estate (residential housing and hotel site). The developers had ignored the denied application request given by the local council, sparking a legal dispute between the developers and the council. The pre-emptive clearing was formally stopped by the Planning and Environment Court, however, there was no power in these proceedings to impose a fine or criminal charges due to technical concerns. This case reveals that there is no significant fine or legal incentive to forbid large businesses from operating outside of their environmental jurisdiction to achieve commercial profits. The idea of smart growth was developed in 1996 as an alternate method for overall community planning. The strategy outlines ten principles that encourage a mix of building types and uses, diverse housing and transportation options, development within existing neighbourhoods, and robust community engagement. Smart Growth is vital to this Bill as it is an established method that will provide a scaffold for a NSW duty of care, and ensure that property developers create amenities that are necessary for future generations and consider the impact on the natural environment.

The U.S city of Abacoa, Florida, offers a successful example of Smart Growth. Its compact design and open space restoration has protected native species, reduced pressure on the nearby Everglades, and improved stormwater management. This shows that Smart Growth can align with corporate social responsibility without reducing long-term business profitability and economic growth. Urban sprawl and overdevelopment of natural areas remain a key public concern; despite this, there has been a relatively slow uptake of Smart Growth, due to it not being legislated or a requirement of businesses. Many areas of Australia are under high-development pressure, this Bill will support the implementation of a duty of care that all businesses must follow when establishing or expanding their operations.

All aspects of our environment must be protected to ensure the continued survival of Australia's unique and irreplaceable ecosystems. Young people across New South Wales have consistently raised concerns about the ongoing degradation of their local environments, from polluted rivers and beaches to destroyed native bushland and wetlands. Every aspect of the environment is facing hardships, hardships young people are putting at the forefront of the conversation. In the 2023 Mission Australian Youth Survey, 44% of respondents identified the environment as one of the most pressing issues facing the nation. These environmental landscapes are not only for recreation and tourism use, but for people's identity and wellbeing. Without stronger environmental duty of care laws, ecosystems will continue to be harmed by unchecked development, pollution, and mismanagement. With 80% of marine pollution coming from land-based sources such as agricultural runoff and waste, this Bill highlights the need to hold companies accountable for environmental harm across all aspects of the environment before it occurs, empowering communities and future generations to protect and restore our environment. This Bill recognises the right of young people to inherit a healthy environment and calls for a stronger legal duty of care to be placed on major corporations to prevent harm through unchecked development, pollution, and mismanagement.

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## The Youth Legislature of New South Wales enacts—

### Part 1 Preliminary

#### 1 Name of Act

This Act is the Environmental 'Duty of Care' Youth Act 2025.

#### 2 Commencement

The Act commences 12 months after Assent.

#### 3 Relationships to other Acts

This Act is intended to operate in conjunction with the following Acts—

- a. Environmental Planning and Assessment Act 1979; and
- b. Biodiversity Conservation Act 2016

#### 4 Objects

The objects of this Act are to—

- (a) enforce a legal duty of environmental care among corporations,
- (b) ensure transparent, accountable environmental reporting,
- (c) enhance protections for natural ecosystems and wildlife,
- (d) promote sustainable development through Smart Growth principles,
- (e) strengthen marine and waterway stewardship, and
- (f) establish stronger enforcement and funding mechanisms to protect the environment.

#### 5 Definitions

In this Act—

**Animals** are outlined under the National Parks and Wildlife Act 1974.

**Corporations** are any business entity with 200 or more employees or an annual revenue exceeding \$50 million.

**Endangered Species or Ecological Communities** are outlined under the Biodiversity Conservation Act 2016.

**Environmental Duty of Care** is the responsibility to prevent and minimise environmental harm.

**EPA** refers to the Environmental Protection Authority.

**Jurisdiction** refers to the geographical area in which a corporation operates or affects through its business practices.

**Marine** refers something that is found in or surrounding sea environments.

**No Take Zones** refers to Marine Protected Areas where extractive activities like fishing, collecting, and mining are prohibited.

**Relevant Personnel** refers to a corporation's CEO, Board, or nominated Environmental Officer

**Smart Growth** refers to a guiding set of principles that outline sustainability, accessibility, and community benefit, which are prescribed by regulations.

**Note**— The *Interpretation Act 1987* also contains definitions and other provisions that affect the interpretation of this Bill.

## Part 2 Corporate Accountability and Mandatory Environmental Reporting

### 6 Annual Environmental Accountability Reports

(1) Corporations must submit an *Annual Environmental Accountability Report* to the NSW Environmental Protection Authority (EPA) at the end of every financial year, outlining—

- a. resource usage; and
- b. evidence of community or restoration efforts; and
- c. emissions data, for businesses polluting over 10,000 tons of CO<sub>2</sub> per year; and
- d. waste management practices.

(2) The NSW EPA shall—

- a. develop standardised templates and guidelines for corporations to follow when reporting; and
- b. randomly audit reports to ensure accuracy; and
- c. publish all reports online where public access is ensured

### 7 Consequences of Failed Compliance

(1) Corporations operating within New South Wales that fail to produce an honest and complete environmental report shall be subject to investigation and penalties under this Act.

(2) Penalties shall be consistent with the Protection of the Environment Operations Act 1997 and the Environment Protection Legislation Amendment (Stronger Regulation and Penalties) Act 2024 and will be determined by the following offence tiers—

- a. Tier 1 - Wilful or Reckless

- i. this applies to corporations that knowingly falsify or omit critical environmental data, resulting in actual or likely significant environmental harm; and
  - ii. penalties imposed will be up to \$10 million or 50% of net profit from the previous financial year, whichever is greater; and
  - iii. additional orders may include mandatory remediation, public disclosure, license suspension or prosecution under *Section 115 and 116 of the Protection of the Environment Operations Act 1997*
- b. Tier 2 - Negligent or Repeated Non-Compliance
  - i. this tier applies to corporations that fail to report accurately due to negligence or repeated breaches without intent to deceive; and
  - ii. penalties imposed will be up to \$4 million or 30% of net profit, whichever is greater; and
  - iii. additional orders may include third-party audits, compliance training, or temporary operational restrictions under EPA direction
- c. Tier 3 - Administrative or Isolated Breaches
  - i. this applies to corporations that commit minor or administrative reporting errors without significant environmental impact; and
  - ii. penalties applied will be up to \$500,000 or 10% of net profit, whichever is greater; and
  - iii. additional orders may include correction notices, written warnings, or minor fines issued by the EPA

## **8 Personal Accountability of Corporate Executives**

- (1) Any corporation found to have submitted false, misleading, or incomplete environmental reports under this Act shall have the Chief Executive Officer (CEO), or equivalent most senior executive, named as the responsible party.
- (2) The EPA shall publicly disclose the name of the responsible party alongside any breached legislation to ensure transparency and reputational accountability.
- (3) The company must then release an official apology for the misreporting directly from the CEO or equivalent.
- (4) The CEO, alongside the corporation, must take responsibility for resolving and rectifying any mistakes within 6 months.
- (5) The company must submit an updated, accurate *Environmental Accountability Report* within six months of the original offence.

## **Part 3 Monitoring of Urban Development and Planning**

### **9 Authority Given to Local Government**

- (1) Local councils will be granted legal authority to restrict the development of proposals that significantly damage or risk environmental zones.
- (2) All new suburbs, planned communities, and major developments in New South Wales must comply with Smart Growth principles as defined in this Act.
- (3) Proof of compliance must be submitted in Smart Growth Adherence Report (SGAR), outlining—
  - a. environmental and social sustainability analysis; and
  - b. biohazard emission mitigation strategies; and
  - c. addition of sustainable architecture choices; and
  - d. statement aligning with at least eight (8) of ten (10) principles
- (4) Incentives for Smart Growth obedience include—
  - a. fast-tracked planning approval; and
  - b. subsidies of up to \$1 million for property developers aligning with Smart Growth principles
  - c. public recognition certificate.

### **10 Reassessment of Urban Zoning Laws to Mitigate Urban Sprawl**

- (1) Regional zoning must be reassessed around new and potential development areas on outskirts of large urban centres.
  - a. areas with over 75% forest coverage are to be deemed protected from overdevelopment indefinitely
- (2) R2 zoned areas within urban areas are to be assessed for upgrading to R3/R4 zones.
  - a. R2 zoned areas within 1km of train stations or major bus stops are to be rezoned to medium density housing
- (3) Subsidies of up to 30% of development cost to housing developers for building high density housing within urban areas.

### **11 Failure of Compliance Measures**

- (1) Failure to adhere to Smart Growth, as outlined in this Act, may include—
  - a. failure of SGAR submission; and
  - b. SGAR missing key details outlined in Clause 7; and
  - c. failure to maintain standards outlined in SGAR; and
- (2) Failure of compliance will result in—

- a. delayed building proposal; and
- b. denial of construction rights.

## **Part 4 Marine and Waterways Stewardship and Habitat Protections and Reporting**

### **Division 1 Marine Practices and Waterway Integrity**

#### **12 Marine Protected Areas and No-Take Zones**

- (1) Measures shall be taken to strengthen restrictions and enforcements surrounding no-take zones, especially regarding—
  - a. commercial fishing and usage; and
  - b. shark nets; and
  - c. mining; and
  - d. drilling
- (2) Community educational awareness campaigns shall be launched to raise awareness around marine protected areas and their importance.

#### **13 Marine Impact Assessments**

- (1) Large corporations and companies must generate marine impact assessments prior to development and at a two-year interval thereafter, which should include but not limited to—
  - a. damage to the planet and the impact it will have on people; and
  - b. initial impact on pre-existing and established species

### **Division 2 Reporting of Habitat Losses and Further Native Animal Protections**

#### **14 Mandatory Reporting of the harm to native animals, other endangered species or ecological communities**

- (1) All companies must inform the NSW EPA of any native animals, endangered species or ecological communities killed or injured due to the actions of the business immediately and again within their Annual Environmental Accountability Report.
- (2) The company will be subject to fines for false reports on their behalf.
- (3) Additional penalties deemed acceptable by the NSW EPA for the harm to native animals, endangered species or ecological communities will be applied for habitat loss.
- (4) Habitat loss will be considered as eligible for the application of penalties based on whether the NSW EPA believes the loss of native animals, endangered species or ecological communities was—

- a. excessive; or
  - b. cruel; or
  - c. intentional; or
  - d. negligent; or
  - e. preventable, or
  - f. cumulative
- (5) Any company's actions deemed to be based on multiple factors will be penalised as if each factor were its own separate event.
- (6) If the damage was done to protected or endangered species and/or ecological communities, then penalties will be deemed by the NSW EPA to be of more significant value

### **Division 3 Increased Planning Protections**

#### **15 Development Proposals and Environmental Impact Assessments**

- (1) All new *Environmental Impact Assessments*, from the commencement of this act, outlined under the *Environmental Planning and Assessment Act 1979 NSW*, must contain sections outlining the risk to any natural wildlife, which includes—
- a. any native or non-native animals; and
  - b. any land containing endangered plant species or ecological communities
- (2) The company must also agree, within their *Environmental Impact Assessment*, that it will—
- a. replace any damage to the natural wildlife, by—
    - i. purchasing Biodiversity credits (following the Biodiversity Conservation Act 2016); and
    - ii. completing remediation efforts on the land or animals living there; and
  - b. paying fines, if applicable
- (3) If it has been found that there is a significant risk of the destruction or harm to any native animals, other endangered species or ecological communities as determined by the NSW EPA on application of the *Environmental Impact Assessments*, then the company must—
- a. halt any possible work on the development, unless it is for the express purpose of protecting the wellbeing of either the animals or any other part of the wildlife; and
  - b. ensure no harm will come to the native animals, other endangered species or ecological communities on the site; and



- c. submit a new development proposal and *Environmental Impact Assessment*, and,
- d. ensure that the new proposal removes the risk to any native animals, other endangered species or ecological communities.

## **Division 4 Corporate Compliance and ESG Accountability**

### **16 Enhancement of Environmental, Social, and Governance (ESG) Reporting Requirements**

- (1) All entities subject to ESG reporting under state jurisdiction shall incorporate a marine-specific impact category within the Environmental section of their report.
- (2) The marine-specific category shall include, but is not limited to, the following elements:
  - a. impact on marine biodiversity; and
  - b. participation in or support of marine-focused initiatives; and
  - c. actions taken to enhance coastal resilience and mitigate climate-related marine risks
- (3) The state environmental agency shall develop and publish guidelines for marine-specific ESG metrics within 12 months of this Act's passage.
- (4) Failure to comply with marine ESG reporting requirements may result in penalties as determined by the regulatory body, including fines and suspension of relevant licenses and permits.

## **Part 6 Increased Funding Measures**

### **17 Increased Funding for NSW EPA**

- (1) The NSW government will allocate the amount of money estimated by the Treasury for the cost of changes made by this act for the EPA, for the purposes of—
  - a. increasing the number and reach of environmental inspectors and audits across industries; and
  - b. strengthening the review and auditing of Environmental Impact Assessments; and
  - c. conducting investigations into environmental harm caused by corporations; and
  - d. developing and distributing standardised reporting templates; and
  - e. engaging with communities, including Traditional Owner groups, to support environmental co-management initiatives.
- (2) The EPA must publish an annual report on the use of the funds allocated under this section, which shall include—

- a. a breakdown of expenditures
- b. assessment of environmental outcomes achieved and,
- c. recommendations for future environmental investment

## **Part 7 Air Quality Management**

### **18 Air Quality Reporting and Management**

- (1) All companies that pollute over 10,000 tons of CO<sub>2</sub> per year must adhere to the following on all new developments—
  - a. install air quality monitors that record air quality twice per day, which must—
    - i. report the readings directly to the NSW EPA; and
    - ii. always be operational
- (2) The NSW EPA must outline air quality targets for all developments, with stricter restrictions depending on the development's proximity to—
  - a. urban areas; or
  - b. schools; or
  - c. residential areas; or
  - d. national parks; or
  - e. maritime environments
- (3) If the business is found to be exceeding these targets, then it must halt all polluting activities until the targets are met.

## **Part 8 First Nations Environmental Protection and Co-Management**

### **19 First Nations Co-Management**

- (1) All corporations undertaking activities that may impact environmental ecosystems must—
  - a. engage in early, formal consultation with local First Nations Elders; and
  - b. demonstrate the integration of First Nations cultural values, knowledge, and priorities within their environmental decision-making
- (2) All corporations where impacts are significant or ongoing must pursue formal agreements, including—
  - a. co-management agreements; or
  - b. joint restoration initiatives.

## **20 First Nations Environmental Protection**

- (1) Major corporations and companies must, where applicable, utilise traditional practices when restoring land. This includes but is not limited to—
  - a. restoration of native flora and fauna; and
  - b. protecting culturally significant species, landscapes, and sacred sites; and
  - c. respecting cultural protocols and connections to Country in all restorative practices.
- (2) Clearing of land must follow the standards of First Nations land management methods, including but not limited to—
  - a. use of season and regenerative land-clearing methods informed by First Nations Elders; and
  - b. applying traditional fire management to support healthy ecosystems

## **Part 9 Education for the Future**

### **21 Corporate Environmental Responsibility Education**

- (3) Large companies and corporations will implement training and education around new regulations and necessary changes as outlined within this Act.
- (4) Corporations must implement mandatory upskilling programs focused on the specific environmental duty of care relevant to their industry and operations.
- (5) Environmental duty of care training must be undertaken by all operational staff, including all executives, the CEO, and board members, to ensure leadership accountability.
- (6) Corporations must include participation rates, program content and compliance with this training as part of their *Annual Environmental Accountability Report*

### **22 Environmental Duty Education within Schools**

- (7) The NSW Government shall ensure that environmental duty of care is embedded across the school curriculum by mandating that:
  - a. environmental duty of care is introduced as a core learning outcome in relevant subjects from Stage three onwards; and
  - b. programs include hands-on learning experiences such as school-based environmental audits, restoration projects, or citizen science; and
  - c. curriculum content includes the role of corporations and industries in environmental impacts and sustainable practices; and
  - d. annual school reports must include environmental education highlights and outcomes in line with state goals.



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