

Senate Standing Committees on Environment and Communications

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12 July 2024

Re: Nature Positive (Environment Protection Australia) Bill 2024 and related bills

Thank you for the opportunity to make a submission on the *Nature Positive (Environment Information Australia) Bill 2024*, the *Nature Positive (Environment Protection Australia) Bill 2024* and the *Nature Positive (Environment Law Amendments and Transitional Provisions) Bill 2024*, collectively referred to as the **NP Bills**.

Environmental Advocacy in Central Queensland (**EnvA**) is a grass-roots community group based in the largest coal mining region in Australia. We are concerned about the direct impacts of coal mining and coal seam gas projects on our environment and also their contribution to greenhouse gas (**GHG**) emission fuelling anthropogenic climate impacts.

EnvA fully supports the intent of this legislation to increase protection for the natural environment, however, we believe that this legislation is unlikely to have any effect in addressing the accelerating decline in biodiversity across all of Australia's terrestrial, freshwater and marine ecosystems. In particular, these bills do not engage at all with the two biggest threats to biodiversity in Australia: climate change and land clearing.

The second independent review of the EPBC Act¹, published nearly four years ago, highlighted the urgent need for the approvals systems set up under the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act)* to include consideration of the contribution of an action to climate change and consequently to impacts on other matters of national environmental significance (**MNES**). Since then, the Federal government has continued to approve coal and gas projects² and biodiversity has continued to decline³, with the decline of iconic treasures such as the Great Barrier Reef and koalas directly linked to global heating. It is therefore critical that all actions involving scope 1, 2 or 3 emissions over a threshold of around 25,000 tonnes CO₂e per year, be captured by the environmental approvals provisions of the EPBC Act so that the impacts of these emissions on MNEs can be fully analysed, and taken into account in decision-making. Decision-making about these projects should also be linked explicitly to Australia's climate targets under the *Climate Change Act 2022*, which in turn reflect Australia's international obligations under the United Nations Framework Convention on Climate Change.

Given that there are 59 new or expanding coal and gas projects currently in the EPBC Act pipeline for assessment and decision, and that the global-average temperature for the past 12

¹ <https://www.dccew.gov.au/sites/default/files/documents/epbc-act-review-final-report-october-2020.pdf>

² <https://australiainstitute.org.au/initiative/coal-mine-tracker/>

³ <https://ausenv.tern.org.au/aer.html>



months (July 2023 – June 2024) has been 1.64°C above the 1850-1900 pre-industrial average⁴, provisions for a ‘climate trigger’ also need to be applied retrospectively to these projects.

EnvA’s second key concern is that there does not seem to be any mechanism in the NP Bills to limit or otherwise control clearing of habitat for listed threatened species and ecological communities. The new Environment Information Agency (EIA) will no doubt improve our understanding of how quickly these MNES are declining, but, beyond providing this information to parliament, there is no mechanism to halt this decline, let alone reverse it.

EnvA fears that the focus on collecting environmental information may in fact justify further delay in taking action to reverse habitat loss. The NP (EIA) Bill seems to be based on the premise that better information will lead to better decision-making, however EnvA does not consider this to be a truism, and is concerned that while decision-makers continue to prioritise short term economic growth over all other considerations, biodiversity will continue to decline (and the climate to heat up).

It is EnvA’s view that there should be an immediate moratorium on clearing of habitat for the 110 priority species identified in the *Threatened Species Action Plan 2022-2032* as well as endangered threatened ecological communities until adequate information is available to set thresholds for cumulative impacts on these species and ecosystems. These thresholds should then be enshrined in enforceable National Environmental Standards so that decisions that lead to these thresholds being exceeded cannot be taken.

EnvA has a number of other concerns with the NP Bills as well. For example, the definition of ‘nature positive’ is too vague and does not reflect the goals agreed under the Global Biodiversity Framework. It refers only to ‘an improvement’ in diversity, abundance, resilience and integrity over an unspecified baseline, and refers to ecosystems, not individual species or natural processes. By this definition, koala extinction would not be seen as a problem, nor would interference with recharge of the Great Artesian Basin. EnvA supports the following definition, which is more in line with the Global Biodiversity Framework:

“halting and reversing the decline in diversity, abundance, resilience, diversity and integrity of ecosystems, native species populations and natural processes by 2030 (measured against a 2020 baseline), and achieving recovery by 2050.”⁵

The new agencies, Environment Information Australia (EIA) and Environment Protection Australia (EPA), are proposed to be headed by a CEO who will be appointed by the government. EnvA is concerned that this provides an inadequate level of governance, and asks that a fully independent Board be established for each agency, with stipulations that Board members be drawn from a wide range of backgrounds, skills and sectoral interests, to ensure that sectoral interests do not dominate the workings of either agency. The independent Boards should be responsible for appointing a CEO. It is also imperative that the CEOs do not have direct or indirect links to fossil fuel companies, or other dominant economic sectors. The Boards should also have responsibility for determining the expectations of each agency, so as to avoid being overly constrained by the Government’s views on what each agency should achieve.

EnvA also questions why information held by the EIA is not to be made publicly available⁶. Apart from the obvious need for transparency, this information should be available as a resource to researchers, preparers of environmental impact statements, land managers,

⁴ <https://climate.copernicus.eu/copernicus-june-2024-marks-12th-month-global-temperature-reaching-15degc-above-pre-industrial>

⁵ <https://www.naturepositive.org/app/uploads/2024/02/The-Definition-of-Nature-Positive.pdf>

⁶ Recognising the need to keep certain types of information, such as information pertaining to First Nations customary knowledge, and information relating to prosecutions, confidential

conservation groups and others with concerns about the state of the Australian environment.

EnvA notes the considerable erosion of public trust in the EPBC Act, and the Federal government's management of the key threats to biodiversity. EnvA considers that further reforms should also be introduced at this stage, specifically to strengthen the ability of members of the public to call for merits-based reviews of decisions under the EPBC Act and to report infringements.

In summary:

- A 'climate trigger' must be added to the EPBC Act if any progress is to be made to halt biodiversity decline.
- A moratorium on clearing of priority species and threatened ecological communities should be put in place until the EIA has time to collect enough information to set safe clearing thresholds.
- Nature positive should be defined more specifically, and in a way that is more measurable and consistent with the goals agreed under the Global Biodiversity Framework.
- The EPA and EIA should be headed by independent boards with sufficient power to set agendas and expectations for the agencies.
- Information collected by the EIA should be available to all those involved in assessing, researching and managing biodiversity.
- Merits-based review of decisions and public reporting of infringements should be added to the EPBC Act.

Thank you again for the opportunity to make this submission, and for your consideration of EnvA's views. This is a critical time for Australia's biodiversity, and EnvA hopes that the Senate will take strong measures to reverse the decline.

Kind regards



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Director

Environmental Advocacy in Central Queensland