

# Australian Conservation Foundation

Submission to the Senate Environment and Communications Legislation Committee inquiry into the *Environment Protection and Biodiversity Conservation Amendment (Reconsideration of Decisions) Bill 2024*

Contact details: Brendan Sydes, National Biodiversity Policy Adviser

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## About the Australian Conservation Foundation

The Australian Conservation Foundation is Australia's national environment organisation.

We are over 500,000 people who speak out for nature – for the air we breathe, the water we drink, the food we eat, and the places and wildlife we love. We are independent, non-partisan and funded by donations from our community.



**AUSTRALIAN  
CONSERVATION  
FOUNDATION**

**Nature  
needs us,  
now**



Thank you for the opportunity to make a submission on the *Environment Protection and Biodiversity Conservation Amendment (Reconsideration of Decisions) Bill 2024* (the Bill).

We do not support the Bill. The Committee should recommend that it not be passed.

The reconsideration provisions in the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) provide an important but limited mechanism to revisit decisions related to whether an approval is required under the Act. It is practical and logical that the Minister has the power to reconsider decisions in the face of substantial new information about an actions impacts.

Contrary to Senator Colbeck's claims in introducing this Bill that the reconsideration mechanism casts doubt on all approvals, the provisions are only applicable in very limited circumstances.

The option to reconsider a decision as to whether an approval is required is only available in circumstances where substantial new information becomes available, where there is a substantial change in circumstances or, in the case of decisions that an approval is not required because an action will be taken in a particular manner, where it becomes clear that an action is not being taken in the manner originally specified.

The Minister's discretion to reconsider a decision in these circumstances is an important safeguard to protect Matters of National Environmental Significance where the premise for the original decision changes about the application of the Act changes.

Preventing the Maugean Skate being driven to the brink of extinction because the water quality outcomes that were promised but are not being delivered in Macquarie Harbour is a clear example of why such a power is necessary.

The right of third parties to make a reconsideration request and initiate the reconsideration process – the right that this Bill seeks to limit - recognises that if left up to them alone, governments will routinely fail to act to prevent environmental harm, even where, as with the Maugean Skate, a species is on the brink of extinction.

The reconsideration provisions in the EBPC Act are one of only a small number of opportunities that provide some level of accountability for the administration of the Act. These opportunities need to be expanded and strengthened, not diminished.



We take this opportunity to express our frustration at the continuing failure of all sides of politics to deliver the urgently needed improvements to Australia's national environmental laws.

We have attached our recently released report, *Extinction roulette – who's going next?*,<sup>1</sup> which documents the imminent extinction risk faced by ten threatened species listed under the EPBC Act, including the Maugean Skate. This is just the tip of the iceberg – as the report points out -the most imperiled species documented in the report are symptoms of a much deeper extinction crisis.

It is regrettable that in this context this Committee and the Senate are being required to spend time on amendments to the EPBC Act that undermine environmental protection measures, reduce community rights, and diminish government accountability for the administration of the Act rather than devoting attention to the urgent need for comprehensive improvements to our national nature laws.

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<sup>1</sup> Attached, and available here: <https://www.acf.org.au/extinction-roulette>

