

Submission: Nature Positive (Environment Protection Australia) Bill 2024 and related bills, on behalf of Climate Action Sydney Eastern Suburbs (CASES)

Thank you for the opportunity to make a submission on the provisions of these bills.

I have been a volunteer bush regenerator for 30 years, first with Greening Australia and now with the Friends of Malabar Headland (FoMH) and Randwick City Council. I have also been an active member of Climate Action Sydney Eastern Suburbs (CASES) for 20 years. I have witnessed a 50% decline in all wildlife and destruction of habitats locally and nationally during this time, despite our best efforts.

Over the last several decades CASES has objected to new or expanded fossil fuel projects on the basis that they add to global heating and therefore, indirectly, damage peoples' lives, livelihoods and the environment, worldwide. Under the EPBC Act, these projects were assessed by their proponents as to the impacts on the **local** people and environment. The only consideration of **externalities** was whether the project's emissions were significant in terms of Australia's total emissions, as we had signed the Kyoto Protocol and, lately, the Paris Agreement. End user (Scope 3) emissions, which were usually much greater than the project's local (Scope 1 & 2) emissions, were disregarded as 'someone else's problem' and to avoid 'double counting' against our targets.

Over the last several years, we have tried to get the environment minister to fill this gaping hole in the EPBC Act. The latest version of our document entitled *Making the EPBC Act address Climate Change Impacts*, which has been 'brushed off', is reproduced below.

In 2019, we were glad to see that the EPBC Act was under review by a committee headed by Prof. Graeme Samuels. To our horror, we found that he was told (by the COALition government) not to consider climate change in his review, despite it being the **primary Key Threatening Process** for all ecological communities. (Have you seen Ken Henry's review of the NSW BCA? He gets it right.) The excuse for this omission was that a Safeguard Mechanism was being developed to reduce emissions by large industrial companies. So, we not only made a submission to the Review but also tried to get essential changes to the Safeguard Mechanism with a document entitled *Making the Safeguard Mechanism Work*.

The new Labor government wrote a Nature Positive Plan to implement Prof. Samuels' recommendations which, disastrously, still omitted consideration of **mitigating** global heating impacts. (There is only consideration of **adaptation** to climate change.) The NPP's aim seems to be faster approval by eliminating public merit review, so we made a submission entitled *Making the Nature Positive Plan fully address Climate Change Impacts*, which was referred to the Nature Positive Taskforce. Now, the Labor government's Bills propose to create a federal Environment Protection Authority, one of the recommendations of the Review designed to speed up approval and remove merit review, but delay any other changes to the Act.

We, and the Climate Council, the ACF, the EDO and other national environmental organisations are appalled. Before the federal EPA is constituted, there must be a **Climate Trigger** in the EPBC Act to stop the approval of more 'carbon bombs'. The world, including international agencies, the Pacific and Torres Strait Islanders, young people with diminishing prospects, all ecological communities, including coral reefs and mangroves, need it. Below is one way it could be done. **This is vitally urgent!**

Making the EPBC Act address Climate Change Impacts

The Australian, State and Territory Governments are doing the Australian public¹ and environment, and the World, a serious dis-service by ignoring or under-estimating the loss and damage costs of Global Heating and Ocean Acidification caused by gas emissions.

As the UN Secretary General said recently: “The era of global warming has ended; the era of global boiling has arrived.” **Guterres urged politicians to take swift action.** “The air is unbreathable, the heat is unbearable, and the level of fossil fuel profits and climate inaction is unacceptable. We face a direct existential threat. Leaders must lead.”

One of the causes is that the Environment Protection and Biodiversity Conservation (EPBC) Act and its associated Guidelines for Environmental Impact Assessment (EIA) do not address the **External Loss and Damage Costs** of greenhouse gas emissions, particularly fugitive emissions from mining and fracking for gas. Millions of human lives, and billions of non-human lives, are being, and will be, lost worldwide as a result of this neglect.² **The external impact costs run into trillions of dollars, with at least 5% affecting Australia.**

Changes Required

There are several **Changes** that should be made to the EPBC Act and its associated Guidelines to correct this deficiency:

- 1 **Climate Trigger.** The EPBC Act lists *Loss of climatic habitat caused by anthropogenic emissions of greenhouse gases* and *Fire regimes that cause declines in biodiversity* as Key Threatening Processes (KTP). However, there is no section of the Act to trigger assessment of the loss from these KTPs for any industry. A section is needed describing the effects of Anthropogenic Global Heating (AGH), which is known to affect at least 45% of Australian species.³ This section would be **a trigger for requiring an EIA for any controlled action (policy, program or project) with substantial greenhouse gas emissions.**
- 2 **Externalities.** The estimated **external social and environmental loss and damage costs** per tonne of carbon dioxide equivalent (CO₂e) greenhouse gas emissions **should be based on the latest international estimates** not, as at present, on any assumed carbon price.⁴ **No Carbon Price has ever reflected the true External Costs of CO₂e emissions.**
- 3 **GWP of Methane.** Methane (CH₄) has a Global Warming Potential (GWP) much greater than that of carbon dioxide but does not last long in the atmosphere. We have recently signed the Global Methane Pledge to reduce methane emissions by 30% by 2030. Since we are greatly concerned with its global warming effect in the short term, we should not be using the 100-year GWP from the National

¹ And neighbouring Islanders who are suing for reparation for rising seas eroding and flooding their lands.

² At increasing risk is ocean life: see <https://ocean.si.edu/ocean-life/invertebrates/ocean-acidification>. The University of Tasmania says, ‘The economic cost to coral reefs, wild fisheries and aquaculture alone of the process known as ocean acidification is projected to reach more than US\$300 billion per annum.

³ The effects of Ocean Acidification, which is increasing and has almost reached the point at which marine vertebrates are unable to form their skeletons, should also be described.

⁴ The external costs of Ocean Acidification should be included in the estimates.

- Government Accounting (NGA) Factors document. **The 20-year GWP figure of 84 times CO₂ for CH₄ should be used when calculating its CO₂ equivalent.**⁵
- 4 **Scope 3 Emissions.** When doing a Cost/Benefit Analysis (CBA) for the public and environment for a fossil fuel proposal, Scope 3 emissions where the fossil fuel product is to be burnt must be included, because they affect Australia just as much as the country or state where they are burnt.⁶ **A proportion of the Scope 3 emission global external costs should be included in all Social and Environmental CBAs** for policies, programs and projects potentially producing fossil fuels.⁷
- 5 **Proportionality.** Since more than half of the true external costs are attributed to loss and damage to the environment rather than to people, **a fair proportion to use for the external costs for Australia or a state or territory would be the proportion of the Australian or State or Territory land area to the world land area**, not the proportion of the number of people inhabiting it or their GDP, either of which is current practice and, being smaller, unfairly favours the proposer.

Recommendations

We have several **Recommendations** to address these deficiencies and improve EIA:

- 1 The EPBC Act should be amended to include an **Externalities Trigger**⁸ describing the effects of Anthropogenic Global Heating (AGH) and Ocean Acidification⁹, and **calling for the Environmental Impact Assessment (EIA) of all policies, programs and projects anticipating substantial amounts of greenhouse gas emissions.**
- 2 The Commonwealth government should immediately research the **international estimates of social and environmental external loss and damage costs per tonne of CO₂-e emissions**, as a consequence of both Global Heating and Ocean Acidification, and decide on an estimate to be used in Australian assessments.¹⁰
- 3 **The NGA Factors document should be augmented to include 20-year GWPs.** All policies, programs and projects with potential substantial methane emissions, whether fugitive or otherwise, should use the 20-year GWP for this gas.
- 4 The **default emissions intensities** and the past and future emissions intensities of all companies monitored under **the Safeguard Mechanism should be recalibrated using the 20-year GWP for methane.**
- 5 The federal government has released a **Threatened Species Action Plan (TSAP)**, but this fails to address the *Loss of climatic habitat* and *Fire regimes* KTPs as major

⁵ This is also compatible with Net Zero by 2035, which the Climate Council say is needed worldwide to limit global heating to 1.5°C above pre-industrial times. The IPCC is asking countries committed to 2050 to aim for 2045 by COP28, but climate scientists are increasingly saying Net Zero by 2035 is needed to avert a runaway global heating catastrophe.

⁶ The external costs of scope 3 emissions are so great that a condition of project approval should be that the fossil fuel recipients use Carbon Capture and Use or Storage (CCUS) to reduce the emissions. This is a very costly exercise which is proving in trials to be largely ineffectual in capturing the huge volumes of gas emitted.

⁷ Note that this is not 'double counting'. Reducing Australia's emissions to targeted limits, such as 43% by 2030, is irrelevant to estimating externalities.

⁸ in the form of a Subdivision under Division 1 of Part 3.

⁹ including the 'feedback' effect of increased water vapour in the atmosphere.

¹⁰ This figure should be subject to annual review as natural disasters increase in frequency and severity.

cause of species and community extinction¹¹. The TSAP says: *The Action Plan will support threat mitigation actions that can be practically undertaken now or can begin in the next few years and will make a real difference to threatened species over the next 10 years. **There will be little difference if global heating and ocean acidification are ignored.*** We recommend that the TSAP be updated to describe the risks, with a new SIG developed (see 6 below)¹².

- 6 The government should issue and enforce **Significant Impact Guidelines (SIG) for the EIA of all policies, programs and projects with potential substantial Greenhouse Gas Emissions** to include all of the Changes 2-5 listed above.
- 7 **The National Offshore Petroleum Safety and Environmental Management Authority (NOPSEMA) should be bound by the new SIG**, and referral for policy, program or project EIA, with conditional approval or rejection, should be to the Environment Minister, not the Resources Minister.¹³
- 8 **Current and future fossil fuel exploration licence applications, and policies opening areas for exploration, should be referred for assessment of their total and cumulative global external costs.** Exploration licences should only be issued, or areas opened for exploration, after assessment of the impacts of their expected or hoped-for long-term volume of extraction, gas leaks and burnt fuel emissions.
- 9 Any large greenhouse gas emitting projects approved or under consideration by Environment and Resources Ministers in the last 3 or more years should be re-referred for EIA using the new SIG.¹⁴
- 10 Two further recommendations should be considered: firstly, **the moratorium on Fracking, current in NSW, should be countrywide, as fracking leads to uncontrollable fugitive emissions which cannot be captured.**
- 11 Secondly, the government should make a **Climate and Extinction Emergency Declaration (CEED)**, in line with most European countries, to recognise the current **Anthropogenic Extinction Event** and bolster greater mitigation action.¹⁵

Conclusion

Australian governments are deluded in thinking that the fossil fuel policy, program and project EIA processes under the Biodiversity Conservation Act work to protect people and the environment, and that the benefits to the economy, and to foreign countries to which we sell the products, exceed the costs of damages and loss of life resulting from their greenhouse gas emissions. We have estimated these external costs for numerous project proposals over the last three or more years, based on the latest international estimates, and found that **the external costs in almost all cases exceed the benefits**, even for gassy coal mine extensions.

¹¹ The Great Barrier Reef (GBR) and Ningaloo Reef are prime examples.

¹² This could be the primary Tool to be developed under Target 19.

¹³ This is particularly important as yet more off-shore mining and exploration projects are planned under the previous government's so called 'Gas Led Recovery', which the current government seems unable or unwilling to reverse.

¹⁴ We note that several major projects have been re-referred for assessment at the request of ECOCEQ, but these cannot be properly assessed without updated Guidelines for EIA.

¹⁵ Many state and local governments have declared a climate emergency but biodiversity extinction needs to be recognised as an emergency as well.

A Guardian investigation showed there are now 195 ‘carbon bomb’ projects in the pipeline or in operation worldwide that will, if allowed to continue, each emit more than 1 billion tonnes of CO₂-e emissions¹⁶. At least **four of these in Australia**, Scarborough and Browse in WA and Barossa and Beetaloo in the NT, **will each cost the world damages and loss of life in excess of \$A1 trillion**. If this is allowed to continue in major emitting countries, such as Australia, it will exacerbate the worldwide ‘**Extinction Event**’, causing ‘**Climate Refugees**’ and more youth ‘**Extinction Rebellions**’ (see <https://www.youtube.com/watch?v=kigyFOj7HUw>).

Regards

Jonathan Milford

CASES

¹⁶ Using the 100-year GWP of methane, so there are actually more carbon bomb projects than they say.