

Senate Economic Legislation Committee

Inquiry into Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other Measures) Bill 2024.

Responses to questions on notice directed to the Australian Conservation Foundation, 18 March 2024

Questions from Senator Dorinda Cox:

1. Does the change in Schedule 2 Part 2 align with what the Government has promised in their Nature Positive Plan?
2. If Schedule 2 Part 2 of this bill was removed, what could be done to address the issues with the approval process?

Responses.

1. No, the amendments proposed in Part 2 of Schedule 2 are inconsistent with the government's commitments to reform of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) as outlined in their Nature Positive Plan.

The government has committed to retaining a framework for strategic assessments and accreditation of regulatory regimes and management arrangements in new national nature positive legislation. As outlined in our written submission, the legislative policy of the EPBC Act is that the Environment Minister is responsible for deciding whether alternative plans or regulatory regimes meet the objectives and environment protection standards under the Act.

The reforms committed to in the Nature Positive Plan maintains and builds on this policy, with both the proposed new Environment Protection Australia (EPA) and the Environment Minister being responsible for ensuring that any endorsed or accredited arrangements under new national environmental laws are consistent with new National Environmental Standards, legislative objectives and other specific matters, such as commitments under international environmental agreements.

The amendments proposed in Part 2 of Schedule 2 to this Bill are inconsistent with these Nature Positive Plan commitments. Firstly, they allow the Resources Minister to make changes to NOPSEMA's endorsed plan without the oversight or agreement of the Minister or proposed new EPA, and secondly the amendments provide no assurance that any changes will be consistent with environmental protection standards in national nature protection laws.

For further information see the response to Recommendation 16 of the Independent Review of the EPBC Act at page 41 of the Nature Positive Plan.¹

¹ <https://www.dcceew.gov.au/sites/default/files/documents/nature-positive-plan.pdf>

See also the Policy Paper on Accreditation contained in the materials provided to the second round of Consultation on National Environmental Laws, 13-14 December 2023.²

2. If these proposed amendments are removed, the options for dealing with any issues with the current approval process would include:
 - a. Utilising the existing provisions of the EPBC Act to update or replace the Strategic Assessment (ie undertaking a new strategic assessment and seeking the Environment Minister's endorsement of this for the purposes of the EPBC Act).
 - b. Put forward specific amendments to the consultation requirements under the current Offshore Petroleum and Greenhouse Gas Storage regulations and propose specific and targeted legislative reforms to implement these. This would allow the actual changes proposed to be scrutinised, and avoid unfettered discretionary powers being granted to the Resources Minister to make changes to NOPSEMA's endorsed plan without the oversight of the Environment Minister as currently set out in the Bill.
 - c. Await the new national nature positive laws, which will include an updated and modernised regime for accreditation, including scope for accreditation arrangements to be updated subject to EPA and Environment Minister oversight. As stated in our submission and in our evidence to the inquiry, the government should commit to urgently progressing these reforms.

[ends]

² Available on this page: <https://consult.dcccew.gov.au/australias-new-nature-positive-laws>