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Tasmanian Independent Science Council
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**Submission: Environment Protection and Biodiversity Conservation Amendment
(Standards and Assurance) Bill 2021**

The Tasmanian Independent Science Council, composed of scientists and related professionals who seek to provide independent, impartial advice, focusing on policy reforms of significant State interest, welcomes the opportunity to comment on this proposed EPBC Act amendment.

In principle, we welcome the Bill's provisions for inclusion of national environmental standards (NES) and the creation of a new Environment Assurance Commissioner (EAC). While the Bill adopts some of the recommendations in the *Final Report of the Independent Review of the EPBC Act* (the Samuel Review), there are some other important recommendations related to the recommended NES that are not addressed by the Bill, as well as other advice of the Samuel Review that is not covered by the Bill.

In regard to the making of NES, we are concerned that the proposed process gives the Minister too much discretion on a case-by-case basis. The Samuel Review advocated legally enforceable NES, to apply to multiple levels of decision-making that would need to be consistent with the applicable NES. Problematically, the Bill envisions that the Minister would have the power to make and apply the NES in a variety of situations, as determined by the Minister on a case-by-case basis, as well the power to act inconsistently with an NES if the Minister is satisfied that it is in the "public interest" to act so and provided reasons are publicly available. We do not support such provisions, for they risk undermining the integrity of NES, which should apply consistently rather than on an ad hoc basis as determined by the Minister.

The proposed EAC should be a useful office for monitoring and/or auditing the implementation of any bilateral agreements with the States and Territories and Commonwealth processes under the EPBC Act. We are concerned, however, that the EAC's functions do not extend to overseeing individual decisions to approve projects, which are where the detailed application of environmental standards and protections materialises. The Bill also risks compromising the efficacy and independence of the EAC by the requirement that the EAC's work plan have regard to the written expectations of the Minister. If the EAC is to be an effective watchdog, the Bill must ensure that the Commissioner has the independence, powers and resources to investigate and influence proposed development projects.

Thirdly, we are concerned that the Bill fails to provide a comprehensive response to all the recommendations of the Samuel Review. For instance, the Bill includes no measures for facilitating ecological restoration – one of the most important actions for reversing many decades of environmental degradation in Australia. Further, the Bill does not address the Samuel Review's recommendation that the special treatment of forestry operations be removed. The Bill also fails to address how bioregional and landscape planning can be reinvigorated, as recommended by the Samuel Review, to help stop the decline in biodiversity and to address cumulative environmental impacts. The Bill also fails to establish greatly improved data and information systems to ensure proper implementation and oversight of the EPBC Act.

In summary, we recommended that the Bill be redrafted to:

- Strengthen the National Environmental Standards to minimise the loopholes identified.
- Strengthen the independence, powers and resourcing of the Environment Assurance Commissioner, in accordance with the recommendations of the Samuel Review.
- Address other key recommendations of the Samuel Review, especially in relation to ecological restoration, bioregional planning, Regional Forests Agreements, Indigenous environmental knowledge, and climate change issues.

Yours sincerely

Tasmanian Independent Science Council