

The Senate

Environment and Communications
Legislation Committee

Galilee Basin (Coal Prohibition) Bill 2018

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Chapter 1

Introduction

1.1 The Galilee Basin (Coal Prohibition) Bill 2018 (the bill) was introduced by Senator Larissa Waters on 5 December 2018.¹

1.2 On 6 December 2018, the Senate, on the recommendation of the Selection of Bills Committee, referred the bill to the Environment and Communications Legislation Committee for inquiry and report by 13 February 2019.²

Conduct of the inquiry

1.3 In accordance with its usual practice, the committee advertised the inquiry on its website and wrote to relevant individuals and organisations inviting submissions. The date for receipt of submissions was 21 December 2018.

1.4 The committee received 52 submissions, which are listed at Appendix 1 of this report. The submissions are available at www.aph.gov.au/senate/ec. The committee agreed to finalise its deliberations on the inquiry without holding a public hearing.

1.5 The committee thanks all of the individuals and organisations that contributed to the inquiry by making a submission.

Reports of other committees

1.6 When examining a bill or draft bill, the committee takes into account any relevant comments published by the Senate Standing Committee for the Scrutiny of Bills. The Scrutiny of Bills Committee assesses legislative proposals against a set of accountability standards that focus on the effect of proposed legislation on individual rights, liberties and obligations, and on parliamentary propriety.

1.7 At the time of writing, the Scrutiny of Bills Committee had not reported on the bill.

Purpose and overview of the bill

1.8 The bill seeks to prohibit the mining of thermal coal from the Galilee Basin in Queensland. The Explanatory Memorandum outlined the rationale for the proposed prohibition:

With the rapidly increasing concentration of greenhouse gases in our oceans and atmosphere, opening up new coal basins is a dangerous and

1 *Journals of the Senate*, No. 136—5 December 2018, p. 4441.

2 *Journals of the Senate*, No. 137—6 December 2018, p. 4479.

irresponsible threat to the safety and wellbeing of current and future generations.

Therefore this Bill would prohibit constitutional corporations within the meaning of section 51(xx) of the *Constitution* from mining for thermal coal within the Galilee Basin.³

1.9 The Explanatory Memorandum also noted that the bill would not only ensure that Adani's Carmichael coal mine could not proceed, but also any other coal mine proposed for the Galilee Basin including those by companies controlled by Mr Clive Palmer and Ms Gina Rinehart. Clause 4 of the bill outlines that the provisions 'have effect irrespective of any other operating law or any permit, title or instrument issued under any other operating law. To the extent of any inconsistency, this proposed law will prevail'. In addition, clause 4:

...clarifies that while it is not expected that any compulsory acquisition would occur, given the nature of this prohibition being regulatory and not an acquisition, the operation of 'just terms' under section 51(xxxi) of the *Constitution* applies to the operation of this proposed Act.⁴

1.10 The bill also specifies the area in which the prohibition would apply, and provides a range of definitions to support the legislation. The Explanatory Memorandum states:

Definitions in clause 5 outline the relevant boundaries where the prohibition applies and defines thermal coal and the relevant mining operations, using the existing definition in section 355(2) of the *Environment Protection and Biodiversity Conservation Act 1999*.⁵

Compatibility with human rights

1.11 The Explanatory Memorandum of the bill states that it is compatible with human rights as:

By preventing the further damage on the environment, this bill protects and strengthens the human rights of Australians.

The mining of coal within the prohibited area is a strict liability and prima facie raises concerns of human rights implications as it removes the need for a prosecution to prove intent or fault in the defendant.

However the burden of proving intent or fault is an unnecessary requirement when proving the facts of the carrying on of a mining operation within the proscribed area is enough to show that an offence has clearly been committed.

3 Explanatory Memorandum, p. 1.

4 Explanatory Memorandum, p. 2.

5 Explanatory Memorandum, p. 2.

Given there is very little scope to mistakenly mine for coal in the prohibited region, a strict liability offence can reasonably be applied to these circumstances in a way that does not inadvertently affect the activities and enjoyment of the general population.⁶

Structure of this report

1.12 This report comprises two chapters, as follows:

- this chapter provides the administrative details of the inquiry, a background to the bill, and an overview of its provisions; and
- chapter 2 outlines the principal issues raised in submissions, and sets out the committee's views and recommendation.

6 Explanatory Memorandum, p. 3.

Chapter 2

Key issues

2.1 This chapter examines the evidence, both for and against the bill, received by the committee in submissions to this inquiry.

2.2 Submitters who supported the bill argued that a ban on coal mining in the Galilee Basin would have a number of positive effects for the environment locally, more broadly across Australia, and globally through mitigating climate change. These submitters also commented that proponents of mining projects in the Galilee Basin had overestimated the economic and employment benefits that could stem from new mines in the area.

2.3 In contrast, submitters who raised concerns with the bill argued that all proposed projects in the Galilee Basin, including the proposed Adani Carmichael mine, are subject to environmental and other assessment approval processes under Commonwealth and Queensland laws. Further, it was contended that the bill does not recognise the economic importance and the benefits that will accrue for local communities, Queensland, and Australia of thermal coal mining in the Galilee Basin.

Evidence supporting the bill

2.4 Much of the evidence provided in support of the bill pointed to positive effects for the environment and public health outcomes that would arise from the prohibition on coal mining in the Galilee Basin. This included that the bill would:

- make a positive contribution to addressing climate change, including assisting Australia to meet its commitment to the Paris Agreement;
- have a number of other positive environmental effects in the Galilee Basin, and more generally for the Great Arterial Basin, and for the Great Barrier Reef; and
- improve health outcomes for in Australia and internationally through reduced coal burning emissions and coal dust from transportation.

Mitigating climate change

2.5 A number of submissions suggested that the bill would mitigate the effects of climate change, particularly as it would reduce carbon emission levels from the burning of coal for energy production.¹

2.6 For example, Doctors for the Environment set out how reducing mining activity in Australia could contribute to global efforts to address climate change:

Calculations of Australia's fair share of the global carbon budget means that 90% of Australian coal reserves need to stay in the ground to limit climate change to below 2 degrees. In short, no carbon budget is left for new coal mines in Australia, and even existing ones will need to be retired before being fully exploited. As the Climate Council estimated, if all the coal from the Galilee Basin were burnt it would cumulatively emit an estimated 705 million tonnes of carbon dioxide (CO₂) every year. This equates to more than 1.3 times Australia's current annual emissions, and if a country in its own right, would rank amongst the top 15 greenhouse gas emitting countries.²

2.7 Some submitters noted that the Commonwealth has ratified the Paris Agreement targets to reduce greenhouse gas emissions to assist limiting global warming to 2°C, and argued that continued coal mining in Australia stands in direct contradiction to this commitment.³

Benefits for particular species or ecosystems

2.8 The committee received evidence that a ban on thermal coal mining would have positive effects on a number of ecosystems and species, both in the Galilee Basin and more broadly.

2.9 The Black-throated Finch Recovery Team submitted that the bill would ensure the preservation of Black-throated Finch in the Galilee Basin as mining operations present a direct threat to the finch's habitat. While approvals for the Adani

1 For example, see: Environment Council of Central Queensland Inc, *Submission 3*, p. 1; Australian Marine Conservation Society, *Submission 4*, p. 1; Protect the Bush Alliance, *Submission 5*, pp. 2–3; Doctors for the Environment, *Submission 12*, pp. 2–3; Lighter Footprints, *Submission 16*, pp. 1–2; Stop Adani Sydney, *Submission 17*, p. 2; Wynnum Manly Stop Adani, *Submission 19*, p. 2; Catchment to Coast Consultants, *Submission 20*, p. 1; Institute for Energy Economics and Financial Analysis, *Submission 35*, pp. 18–19.

2 Doctors for the Environment, *Submission 12*, p. 3.

3 For example, see: Ms Judith Manitzky, *Submission 10*, p. 1; Doctors for the Environment, *Submission 12*, p. 3; Lighter Footprints, *Submission 16*, p. 2; Institute for Energy Economics and Financial Analysis, *Submission 35*, pp. 18–19; Miss Karen Vegar, *Submission 39*, p. 1.

Carmichael mine provide for offsets, it was argued that these are inadequate with many on sites approved for future mining projects.⁴

2.10 Regarding the use of water by extractive industries, the committee received evidence that a ban on coal mining in the Galilee Basin could prevent potential negative effects on the water table, not only in the Galilee Basin itself but also the Great Artesian Basin.⁵

2.11 Submitters noted that the Great Artesian Basin supplies water to Queensland, the Northern Territory, New South Wales, and South Australia, and added that any damage from extractive industries could have widespread effects not only for local communities, but also for industries that require a supply of clean water, including agriculture and tourism.⁶

2.12 In this, some submissions suggested that the Queensland Government had insufficiently scrutinised the 60-year unlimited water use licence granted to Adani for their mining in the Basin area. It was also stated that the Commonwealth should maintain strict oversight to ensure that approval conditions are met, should these projects proceed.⁷

2.13 Regarding the Great Barrier Reef, some submitters argued that the bill would mitigate the negative effects of climate change on the Great Barrier Reef, noting that rising ocean temperatures were perhaps the most significant stressor on the health of the Reef. Others noted that the increased shipping needed to export the coal mined in the Galilee Basin would be accompanied by greater damage to the Reef, including from dredging, spillages, and increased pollution from transportation.⁸

Agriculture

2.14 Some evidence received by the committee argued that coal extraction in the Galilee Basin would have negative effects on the farming and agricultural sector. Farmers for Climate Action suggested that 'human induced climate change is already having a negative impact on the productivity of the agricultural sector', and that there

4 Black-throated Finch Recovery Team, *Submission 7*, p. 1. See also, BirdLife Australia, *Submission 27*, p. 1.

5 See, for example: Doctors for the Environment, *Submission 12*, p. 5; Lighter Footprints, *Submission 16*, pp. 2 and 5–6; Stop Adani Sydney, *Submission 17*, p. 2; Wynnum Manly Stop Adani, *Submission 19*, p. 5; Catchment to Coast Consultants, *Submission 20*, p. 1; Farmers for Climate Action, *Submission 21*, pp. 5–6.

6 See, for example: Stop Adani Sydney, *Submission 17*, p. 1.

7 See, for example: Lighter Footprints, *Submission 16*, pp. 5–6 and 9.

8 See, for example: Australian Marine Conservation Society, *Submission 4*, p. 1; Doctors for the Environment, *Submission 12*, p. 5; Australian Religious Response to Climate Change, *Submission 22*, p. 5; Bayside Climate Change Action Group, *Submission 24*, p. 1; Ms Kristyn Glanville, *Submission 33*, p. 1; Institute for Energy Economics and Financial Analysis, *Submission 35*, p. 18.

should be a transition towards a 'clean energy future' rather than the use of fossil fuels.⁹

2.15 Moreover, a number of submitters were concerned about potential damage to the water table from Galilee Basin mining.¹⁰ Farmers for Climate Action suggested recent research has shown 'the inadequacy of current understanding of risks posed to ground and surface water systems as a result of extractive industries in the Galilee Basin', and so argued:

...that the sustainability, profitability and integrity of Australia's food and fibre production systems must not be compromised in the name of short term extractive industry growth. This includes ensuring that there is no net decline to the quality or quantity of water available to the agricultural sector as a result of extractive activities, nor detrimental impacts to the global climate.

For these reasons, Farmers for Climate Action urges the Committee to address the growing disconnect between science and policy, and advance alternative, sustainable and resilient economic development opportunities for the Galilee Basin and surrounds.¹¹

Human health

2.16 Submitters contended that the proposed prohibition on thermal coal mining in the Galilee Basin will result in improve air quality: not only will coal dust be reduced in areas through which coal is transported but also coal burning emissions in countries that would import Galilee Basin coal.¹² Doctors for the Environment stated:

In India, where coal from the Adani mine is destined to be burnt, coal fired power stations contribute to the air pollution that that leads to the premature death of an estimated 1.1 million people per/year and affects many more with minor or serious illnesses.¹³

2.17 The Australia Institute submitted that assessments of the economic effects of coal production in Australia usually omit consideration of 'its substantial impacts on human health', including the healthcare costs that come from air pollution and its effects on water resources.¹⁴

9 Farmers for Climate Action, *Submission 21*, pp. 2–3.

10 See, for example: 350 Canberra, *Submission 14*, p. 1; Stop Adani Sydney, *Submission 17*, p. 1; Australian Religious Response to Climate Change, *Submission 22*, p. 6; Institute for Energy Economics and Financial Analysis, *Submission 35*, p. 18.

11 Farmers for Climate Action, *Submission 21*, pp. 5 and 6–7.

12 See, for example: Wide Bay Burnett Environment Council, *Submission 1*, p. 1; Doctors for the Environment, *Submission 12*, p. 6; Lighter Footprints, *Submission 16*, p. 2.

13 Doctors for the Environment, *Submission 12*, p. 6.

14 The Australia Institute, *Submission 34*, Attachment 3 (*Never gonna dig you up! Modelling the economic impacts of a moratorium on new coal mines*), p. 15.

Economic effects

2.18 Some of the evidence received by the committee suggested that the economic effects of the bill would be minimal, particularly given the declining demand for coal internationally, Australia's already large coal production capacity, and the overstated economic benefits of the Adani project and the mining sector more broadly.

2.19 It was argued that the projected economic benefits of coal mining had been overstated. Submitters pointed to the declining demand for coal internationally due to developed and emerging economies turning to renewable sources of energy and stated that this had not been factor into projections for the Adani development.¹⁵ Others suggested that Galilee Basin coal was 'significantly lower quality than the benchmark Australian export coal', which meant that actual profits may not achieve forecasted estimates.¹⁶

2.20 Some submissions suggested that the employment estimates for the proposed new Adani mine, as well as the traditional mining sector more broadly, had been greatly overstated, meaning that benefits for local communities would not be as large as expected.¹⁷

2.21 Other evidence suggested that the number of jobs in the mining sector had been overestimated, and that the Commonwealth Government should increase efforts to grow the renewables sector. For example, the Environment Council of Central Queensland Inc. argued that:

Not only must we not allow any greenfields fossil fuel projects such as the Galilee Basin to proceed because of the effect on global temperatures, but we must also begin to train real people for real jobs to transition us away from existing fossil fuel industries. Governments consistently talk about jobs when talking about mining, but ABS figures show that while mining is a big earner, it employs very few people compared to other industries.¹⁸

2.22 Some submissions also contended that the environmental damage caused by emissions from burning coal could exacerbate the global effects of climate change, and subsequently threaten the large number of jobs in the Great Barrier Reef-related sector. Some estimates put the number of Reef industry jobs at approximately 69 000.¹⁹

15 For example, see: Ms Wendy Tubman, *Submission 15*, p. 2; Lighter Footprints, *Submission 16*, p. 3; Bayside Climate Change Action Group, *Submission 22*, p. 3; Ms Kristyn Glanville, *Submission 33*, p. 1; The Australia Institute, *Submission 34*, p. 10; Institute for Energy Economics and Financial Analysis, *Submission 35*, p. 1

16 Institute for Energy Economics and Financial Analysis, *Submission 35*, p. 14.

17 Ms Wendy Tubman, *Submission 15*, p. 2.

18 Environment Council of Central Queensland Inc, *Submission 3*, p. 2.

19 Doctors for the Environment, *Submission 12*, p. 5; Wynnum Manly Stop Adani, *Submission 19*, p. 3.

2.23 The Australia Institute submitted that the 'economic impact of the bill would be minimal'. Noting Australia already produces a large quantity of coal from existing mines, The Australia Institute estimated that a moratorium on all new coal mines would have the following impacts on the Australian economy:

- GDP is affected by just 0.6% in 2040 [when the economy is projected to total \$3 trillion, around twice the current GDP]
- Difference in employment peaks at 0.04% in 2030
- Reduction of export value of around 1% in 2040.²⁰

Evidence against the bill

2.24 Submitters who opposed the bill noted particularly that all resource industry proposals are subject to Commonwealth and state environmental evaluations processes, including all proposed mining projects in the Galilee Basin. Moreover, it was argued that the bill's ban on thermal coal mining in the Galilee Basin would:

- have damaging economic effects on local communities and the Australian economy more broadly, including through lost employment opportunities and tax revenues from mining;
- create regulatory uncertainty and sovereign risk for Australia, by creating uncertainty for potential foreign investors in our resource sector; and
- fail to make an effective contribution to Australian and international efforts to address climate change.

Commonwealth and Queensland Government approvals processes

2.25 The Queensland Resources Council and CFMEU Mining & Energy Division Queensland (QRC and CFMEU) submission argued that the bill 'ignores all the public and regulatory scrutiny that has already been applied to projects in the Galilee Basin at the State and Commonwealth level'.²¹

2.26 In this, the QRC and CFMEU noted that the Commonwealth and Queensland Governments had stringent regulatory standards that must be met by any proposed resources project, including those in the Galilee Basin:

The primary responsibility for regulating resource development sits with State and Territory governments and the Commonwealth Government's main role is to ensure compliance with Australia's international commitments and national legislation, such as the *Environment Protection and Biodiversity Conservation Act (1999)*. It is true that major projects, including coal mines, have a number of impacts, both positive and negative, each of different scope and duration. This is why—despite the risk of

20 The Australia Institute, *Submission 34*, p. 1 and also at p. 7.

21 Queensland Resources Council and the CFMEU Mining and Energy Division Queensland, *Submission 8*, p. 2.

duplication and overlap—that these projects are assessed and regulated by both State and Commonwealth governments.²²

Strong international demand for quality Australian coal

2.27 It was also argued that the bill would not reduce the current international demand for thermal coal, as some supporters of the bill had put forward.²³ For example, the QRC and CFMEU drew on International Energy Agency figures that suggested:

Given the current and forecast investment in coal-fired power generation, demand for thermal coal in the global market will remain, particularly in the Asia Pacific. If the Galilee Basin is not developed, the coal to fire these power stations will be sourced from elsewhere. Were it to be developed, the Galilee Basin would be only one of many thermal coal producing regions in Australia—and even then, around 80% of the world's thermal coal exports are supplied from outside of Australia.²⁴

2.28 The Minerals Council of Australia (MCA) stated that a reduction in the supply of high-quality Australian coal for international markets may have unintended adverse environmental outcomes as importers would switch to poorer-quality coal from other countries. The MCA added:

The proposed Bill will ensure that thermal coal is not extracted from the Galilee Basin. In this case, and given the strong demand for thermal coal, Asian markets will obtain thermal coal from other suppliers such as Indonesia which generally have lower grade of thermal coal than Australia. Therefore the proposed Bill may have the perverse outcome of encouraging the use of a less energy efficient and but more emissions intensive source of coal.²⁵

Poor economic outcomes for local, state and national economies

2.29 The committee received evidence that a ban of coal production in the Galilee Basin, as proposed by the bill, would have poor economic outcomes for local communities, the state of Queensland, and for Australia's economy more broadly.

2.30 Several submitters noted the profoundly negative outcomes that the bill would create through lost employment opportunities. It was argued that this would be most

22 Queensland Resources Council and the CFMEU Mining and Energy Division Queensland, *Submission 8*, p. 3.

23 See, for example: Minerals Council of Australia, *Submission 6*, pp. 4–5; Queensland Resources Council and the CFMEU Mining and Energy Division Queensland, *Submission 8*, p. 5; Townsville Enterprise Limited, *Submission 37*, p. 2.

24 Queensland Resources Council and the CFMEU Mining and Energy Division Queensland, *Submission 8*, p. 5. See also, Minerals Council of Australia, *Submission 6*, p. 4.

25 Minerals Council of Australia, *Submission 6*, p. 5.

pronounced in small regional areas in which job opportunities are limited, but would also effect employment levels across Queensland more generally²⁶

2.31 For example, Townsville Enterprise Limited outlined the benefits of mining for regions in Queensland where unemployment is high and opportunities for growth limited:

The recent announcement that the Adani Group would provide the finance for the Carmichael Mine and Rail Project after eight years of approvals was also welcomed by our local community. The project, to commence imminently, would deliver more than 1,500 direct jobs in the initial construction phase, a boost of confidence to the 11,000 people looking for work and to a private sector that remains cautious despite the level of Government investment committed. This generational project will be the first new coal basin opened in Australia in 50 years.

In addition, there are six mines that could proceed in the Galilee Basin potentially generating more than 15,000 direct jobs according to the Queensland Government's Co-ordinator-General. The Galilee Basin would generate more than \$40 billion in taxes, helping to fund more schools, hospitals and public services. The Adani project will be the catalyst to the realisation of all six mines.²⁷

2.32 The Resource Industry Network pointed to the significant flow-on benefits from resource sector projects, even outside mining areas:

The resource sector contributes \$3.4 billion in direct expenditure to the Mackay, Isaac, and Whitsunday businesses or community organisations and creates the flow-on benefit of an additional \$4.9 billion with expenditure from the supply chain and employee spending.

In particular, while the Mackay region doesn't have any coal mines in its local government area, it has the largest regional economic contribution from resources across the state, evidence that the flow-on effect from the industries that support mining is just as significant as the direct contributions.²⁸

2.33 The QRC and CFMEU noted that a successful resource sector not only benefited local communities through lifting employment rates, but also provided benefits throughout Queensland through mining royalties:

At a time when Queensland's unemployment rate is the highest in the nation, the development of the Galilee Basin can provide a welcome increase to the employment opportunities for Queensland's regional labour force. According to the Office of the Chief Economist; if they were to all proceed as currently configured, the six major coal projects in the Galilee

26 For example, see: Rockhampton Regional Council, *Submission 36*, p. 1; Townsville Enterprise Limited, *Submission 37*, p. 2.

27 Townsville Enterprise Limited, *Submission 37*, p. 2.

28 Resource Industry Network and Greater Whitsunday Alliance, *Submission 38*, p. 3.

Basin would have a combined cost estimate of \$48.4 billion and would support 18,275 jobs during construction. The jobs created in mining are typically highly skilled, high-tech, high-paying jobs that support local communities across Queensland.

The economic benefits aren't limited to regional Queensland. The royalty payoff from developing the Galilee Basin will support Queensland Government services. Even if only one quarter of the coal capacity in the Galilee (as identified by the Office of the Chief Economist) is developed, QRC estimates the royalties paid to the Queensland Government would reach approximately \$290 million each, year. At today's rates, that could pay the annual salaries of over 4,000 teachers, police constables or registered nurses.²⁹

2.34 This was supported by evidence from the Resource Industry Network and Greater Whitsunday Alliance, which informed the committee that:

With the Office of the Chief Economist estimating that Galilee projects will result in 14,533 direct jobs this could equate to the flow-on benefit of 72,000 additional full-time jobs. Nearly double what currently exists in our region at present, and provides job and economic security for regions in regards to existing mines that have an end of life in the next 20 years.

The significant indirect jobs that are attributed to mining will not only ensure the sustainability of the region with economic benefits from procurement and wages spend in the community, but with the predicted economic costs of Australia's aging population, the revenue benefits for governments in increased payroll and income tax are vital to ensure the country can continue with the standard of living we are currently experiencing for all.³⁰

2.35 It was also noted that there would be a significant opportunity cost from prohibiting coal mining in the Galilee Basin for the Commonwealth and our national economy. For example, the QRC and CFMEU cited the Productivity Commission's inquiry that found that:

...major projects are a vital source of Australia's future prosperity. They lift national income, create employment opportunities, raise productivity and generate revenue for governments through royalties and taxation, thereby helping to fund government programs.³¹

2.36 Similarly, regional stakeholders pointed to the contribution of mining to the economy. For example, the Rockhampton Regional Council submitted:

29 Queensland Resources Council and the CFMEU Mining and Energy Division Queensland, *Submission 8*, p. 4. See also, Minerals Council of Australia, *Submission 6*, p. 6.

30 Resource Industry Network and Greater Whitsunday Alliance, *Submission 38*, p. 3.

31 Productivity Commission, *Inquiry into Major Project Development Assessment Processes* (2013), cited in Queensland Resources Council and the CFMEU Mining and Energy Division Queensland, *Submission 8*, p. 4.

Mining of Australia's resources, including the mining of coal, is critical to our national economy and remains essential to securing the future prosperity for all Australians. The income raised directly and indirectly from the resources sector contributes strongly to the nation's capacity to provide a wide range of services which are of benefit to the entire population.³²

Regulatory uncertainty and sovereign risk

2.37 Some submissions noted that the bill would create regulatory uncertainty for projects in the resources sector, which would pose a significant sovereign risk for Australia. The MCA noted that the bill would set a 'poor precedent', as it:

...undermines the thorough approvals process at the state and Commonwealth level that major mining projects must adhere to. Additionally a blanket ban of mining in a region of Australia will have a significantly negative impact of investors' sentiment in Australia's broader resources sector.³³

2.38 Additionally, the MCA stated that the bill could potentially be unconstitutional, as it unfairly discriminated against Queensland:

The constitutionality of the Bill needs to be carefully considered, especially in relation to Section 99 of the Australian Constitution where 'The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof'. In effect the Bill discriminates against Queensland and its regional communities which can cause undue economic harm to Queensland.³⁴

Committee view

2.39 The committee recognises that a properly managed and successful resources sector is a key part of the health and viability of our national economy. This sector provides a number of benefits to local communities, particularly by lifting the number of employment opportunities available for Australians, often in areas where these opportunities are limited.

2.40 More generally, the resources industry provides substantial revenues to Commonwealth and State and Territory Governments through royalty and tax regimes. This revenue contributes to ensuring the sustainability of the services Australians expect, including in health and aged care, education, policing and other essential social services.

32 Rockhampton Regional Council, *Submission 36*, p. 1.

33 Minerals Council of Australia, *Submission 6*, p. 3 and p. 7. See also, Resource Industry Network and Greater Whitsunday Alliance, *Submission 38*, p. 3.

34 Minerals Council of Australia, *Submission 6*, p. 8, citing *Commonwealth of Australia Constitution*, section 99.

2.41 The bill proposes that all mining of thermal coal in the Galilee Basin be prohibited, and suggests that this would create a number of positive outcomes for the environment, both in Australia and globally.

2.42 On environmental outcomes, the committee is assured that projects in the resource sector must meet all necessary environmental approvals from Commonwealth and jurisdictional governments before they can proceed. Mining projects proposed for the Galilee Basin are no different, and must meet the standards of the Commonwealth, including under the *Environment Protection and Biodiversity Conservation Act 1999*, as well as all relevant State Government environmental approvals.

2.43 Submitters supporting the bill also argued that the economic effects of the bill would be 'minimal', asserting that proponents of mining projects have overstated the benefits of Galilee Basin coal mining for local, Queensland and national communities. It was also suggested that proponents of new coal mining projects in the Galilee Basin had not fully taken into account a declining demand for coal internationally due to a shift to renewable sources of energy, which would make these mines less profitable than forecast.

2.44 The committee does not support the arguments that there will be minimal economic effects should coal mining in the Galilee Basin be prohibited. It was clearly articulated by some submitters that there would be substantial opportunity costs for Australia resulting from a ban on mining in the Galilee Basin. According to this evidence, no mining of thermal coal would mean no new jobs in communities that already struggle to access ample employment opportunities. No new projects also would mean wider economic losses across the state, in businesses that service the resources industry and its supply chains, and those directly providing goods and services to workers in the mining sector.

2.45 A move towards banning thermal coal mining would create regulatory uncertainty and a significant sovereign risk for Australia's economy well into the future, by making foreign investors more reluctant to support Australian projects. Further, the committee is concerned that the bill presents a constitutional risk. Namely, that the bill would lead to the expropriation, without just compensation, of property rights held by those currently developing the Galilee Basin. This could potentially leave the Australian Government liable for substitutional compensation payments, and in the view of the Committee, this is an unacceptable risk.

2.46 For all these reasons, the committee recommends that the bill not be passed.

Recommendation 1

2.47 The committee recommends that the Senate not pass the bill.

**Senator Jonathon Duniam
Chair**

Labor Senators' additional comments

1.1 Labor Senators thank all organisations and individuals that made submissions to this inquiry and the Secretariat for their research and administrative support.

1.2 Labor agrees with the recommendation of the Committee that the Galilee Basin (Coal Prohibition) Bill 2018 should not be passed.

1.3 While Labor recognises the challenges and dangers posed by climate change, the Galilee Basin (Coal Prohibition) Bill 2018 is flawed for a number of reasons, which are highlighted by the Committee report; including the creation of significant regulatory uncertainty and sovereign risk for the Australian economy by undermining investor confidence and deterring future investment.

1.4 Labor also acknowledges that the Galilee Basin (Coal Prohibition) Bill 2018 has the potential to be inconsistent with the Constitution which prohibits expropriation without just compensation and therefore potentially leaves the Australian Government liable for compensation payments.

1.5 Labor does not support actions, policies or legislation which would have the effect of stripping investors of lawfully held assets, titles, tenements and/or approvals.

1.6 However, Labor does not support providing public funding or concessional loans for the development of the Galilee Basin, if investments or developments are to occur they must stack up financially without public assistance.

1.7 However, as noted earlier, Labor does recognise the challenges and dangers climate change poses to the Australian economy and accordingly has developed a range of policies designed to combat climate change including:

- committing to reaching net zero greenhouse gas emissions by 2050;
- ensuring that at least 50% of the nation's electricity is sourced from renewable energy by 2030;
- enacting an emissions reduction target of 45% below 2005 levels by 2030;
- implement effective policy measures to achieve the net zero target emission goals;
- undertaking significant reform of Australia's environmental law and committing to an Australian Environment Act which protects Australia's environment but also supports job-creating development by streamlining and harmonising processes;

- establishing a new agency, a Federal Environmental Protection Agency, with the mission to protect Australia's natural environment. This agency will be guided by the best available scientific advice and, ensure compliance with environmental law, and have the ability to conduct public inquiries on important environmental matters.

Senator Anne Urquhart
Senator for Tasmania

Senator Anthony Chisholm
Senator for Queensland

Australian Greens' dissenting report

1.1 Climate change is destroying people's lives and livelihoods, through ever-worsening and increasingly frequent heatwaves, floods and droughts. Climate change is pushing many of our most vulnerable species and ecosystems to the brink of extinction. It will change the way we live our lives. The latest Intergovernmental Panel on Climate Change (IPCC) report, released in October 2018, once again states that we must keep coal in the ground if we are to keep global temperature rise below 1.5 degrees. Staying under 1.5 degrees does not require new technologies to be developed to replace coal-fired power – those technologies already exist. It does not require waiting for the cost of renewable energy to be comparable to the cost of coal-fired energy – we're already there. Keeping warming to within 1.5 degrees is now just a matter of political will and leadership.

1.2 The *Galilee Basin (Coal Prohibition) Bill 2018* seeks to do exactly what the science is telling us is necessary – keep coal in the ground. This bill will prohibit all mining of thermal coal in Queensland's Galilee Basin. This bill will prevent the disastrous Adani Carmichael mine from going ahead, as well as eight other mega coal mines planned for the Galilee Basin. We know that if the entire Galilee Basin is developed it has the potential to add more than 700 million tonnes of carbon dioxide (CO₂) to the atmosphere each year. Australia currently emits around 400 million tonnes per year.

1.3 If the Galilee Basin were a country, it would be the seventh highest CO₂ emitter in the world, sitting just behind Germany and well above Canada and the United Kingdom. Allowing this basin to be opened up is both socially and environmentally negligent. The Galilee Basin is a giant carbon bomb. Over the lifetime of these projects, the coal that is mined would produce enough emissions to consume 7% of the world's remaining carbon budget. This drastic addition to global emissions has the potential to singlehandedly derail efforts to avoid runaway climate change.

1.4 It makes sense that in February 2019, when we've seen floods inundate Northern Queensland and bushfires ravage Tasmania, a bill like this would receive such strong support from submitters concerned about climate change. It makes far less sense that the Liberal, National and Labor parties would fail to support it.

1.5 We know that 55.6% of Australians do not want the Adani Carmichael mine to proceed, because of the dangerous effect that burning this coal would have on the global climate. We know another 18.4% were undecided as at October 2017, leaving only 26% who support it – less than half the number who just want it to go away.

1.6 The opposition to mining in the Galilee Basin is even more clear in the submissions to this Senate inquiry. Out of 52 submissions, only six oppose this bill.

Forty-six submissions, from economic analysts, meteorologists, environmental groups and community members across the country and across the demographic spectrum, wholly support this bill, with many saying their only objection is that it should go further and place a moratorium on coal mining across Australia.

1.7 Though the number of submissions opposing the bill is small, they come from a powerful and influential sector of our society, including the Minerals Council of Australia and the Queensland Resource Council, both of who represent the powerful mining interests who dictate to our Liberal and Labor governments through large donations and cosy lobbying.

1.8 Although the rest of civil society, including the banking and finance world, is rapidly divesting from fossil fuels due to their impact on the climate and reduced demand, our Liberal and Labor governments find it much harder to do what is common sense. Federal government subsidies to fossil fuel companies are estimated at \$11 billion a year. Up to 60% of energy and resources companies pay zero tax. Last financial year, fossil fuel companies donated \$1,277,933 to the Labor, Liberal and National parties. This is a 32% increase on the money donated the previous year. The fossil fuel industry influences our government to the extent it is unwilling to take action on climate change. They are on the take, and unable to act in our best interests.

1.9 Australian Greens will address the main arguments put forward for opposing the bill, before turning to the range of reasons that those in the rest of civil society want this bill to pass.

Opposition to the bill

1.10 Out of 52, six submissions opposed the bill. These were from the Minerals Council of Australia (MCA), the Queensland Resources Council (QRC) jointly with the Construction, Maritime, Mining and Energy Union (CFMEU), the Resource Industry Network jointly with the Greater Whitsunday Alliance, Townsville Enterprise Limited, Rockhampton Regional Council and an individual. That is 3 bodies that directly represent the mining sector, a business group, a local Council and an individual.

1.11 As the Committee report notes, the main arguments against the bill are that it would be ineffective in addressing climate change, that it would damage the economy, that it would create uncertainty and sovereign risk in Australia, and that our existing environmental protections are adequate. The inquiry received submissions with very good analyses on these points, which are summarised as follows.

Would the bill be ineffective in addressing climate change?

1.12 We often hear from the pro-coal lobby that if we don't sell our own polluting coal, someone else will sell their polluting coal and cause climate change anyway. In some cases, this argument morphs to one where overseas coal is more polluting than ours. The MCA submitted that this bill would cause 'Asian markets to obtain thermal

coal from suppliers such as Indonesia which generally have [a] lower grade of thermal coal than Australia'.

1.13 However, the Institute for Energy Economics and Financial Analysis (IEEFA) explained that the coal in the Galilee Basin, at lower than 5000kcal with a high ash content, is of lower quality not just than the benchmark Australian export coal (6000kcal), but also the Indonesian coal in question. There is no quality measure, out of energy output, ash or sulphur content, on which the MCA's claim is correct. All coal damages the climate when we burn it, no matter where in the world we take it out of the ground. Renewable energy is the solution.

Will the bill damage the economy?

1.14 Another argument against the bill is that by not mining thermal coal in the region, it will damage local communities through lost unemployment, and will damage the national economy. However, as global demand for coal declines as banks and investors rapidly divest from it, the Australian Greens consider it time to transition local economies away from coal mining. Otherwise, we risk not just stranded assets but also stranded communities. The Australia Institute submitted modelling that a nationwide moratorium on new coal mines would affect GDP by just 0.6% in 2040, feature a peak difference in employment of 0.04% in 2030, and a reduction of export value of around 1% in 2040. It is time to support communities with a just transition away from industries which are rapidly becoming unviable. The cost of climate change to the tourism and agricultural sectors alone means it is economically irresponsible to mine this thermal coal.

Will the bill create uncertainty and sovereign risk for Australia?

1.15 The term 'sovereign risk' has a specific meaning – it refers to the risk that a government will default on its debt. Yet politicians from Labor and the Liberals have been misusing it to mislead communities. The argument is that under dodgy Investor-State Disputes Settlement provisions that governments have committed Australia to. However, this kind of claim is wildly speculative, and in the case of Adani is made even more remote by India's cancelling of our treaty in March 2017. Indeed, the IEEFA submitted that it is mining in the Galilee Basin which would create sovereign risk, by walking away from our commitments under the Paris Climate Agreement so brazenly. The real sovereign risk is failing to act on climate change, and that is one we cannot afford.

Are our existing environmental protections adequate?

1.16 The Australian Greens are firmly on the record with the fact that federal and state environmental protection laws are inadequate. The Adani coal mine, lurching from one environmental fiasco to the next, illustrates this perfectly. Just last week it released water from its coal terminal site into adjacent wetlands, and late last year it performed illegal clearing, drilling and dewatering which it attempted to pass off as monitoring bores.

1.17 Any environmental protection framework that allows projects flying in the face of our international climate obligations is by definition inadequate. As Lighter Footprints, a climate change neighbourhood action group, put it, the bill attempts to overcome the inadequacies in existing environmental protection, especially the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) which fails to address activities which are so obviously against the interests of future generations of Australians.

1.18 Last week again, New South Wales's Land and Environment Court found that the emissions of greenhouse gases and the resulting climate change from a proposed coal mine were among the reasons to reject the project. This landmark ruling shows that our judiciary is catching up to the climate reality. It is time for our legislature to catch up as well.

Support for the bill

1.19 Submitters from a range of communities and backgrounds strongly support this bill, and the reasons they gave are varied. Submitters wanted to avoid exacerbating climate change and uphold our commitment in the Paris Agreement; enhance the environment in the Galilee Basin, Great Arterial Basin and the Great Barrier Reef; and improve other outcomes for the community, both health and economic.

Climate change

1.20 As the Environment Council of Central Queensland states, climate change is happening now, and this bill is a straightforward proposal that will go some of the way to prevent an acceleration of this, and the dire consequence that will follow.

1.21 Even a global temperature rise of 1.5 degrees ensures that 90% of the world's coral reefs will die. 2 degrees mean they will all die. In October 2018 the IPCC warned there is only a dozen years to keep global warming to this maximum, through urgently reducing our carbon emissions. There is time to act, but the time is now.

Other environmental outcomes

1.22 Australian Farmers for Climate Action noted not just the impact of climate change on agricultural production, but also the mining industry's impact on water management. Independent government agencies such as the former National Water Commission have been on the record about this since 2010, and the modelled impacts of groundwater extraction from the Great Artesian Basin for the Adani mine along would have disastrous impacts on the Doongmabulla and Mellaluka Springs complexes, leaving many species and their habitat high and dry.

1.23 The Black-Throated Finch Recovery Team noted the vital importance of the Galilee Basin as a stronghold for the species, and that banning open-cut and underground coal mining would reduce the threat to the species.

1.24 The Australian Marine Conservation Society notes that climate change has been observed most conspicuously on the Great Barrier Reef, where half of all shallow water corals have died in recent years due to consecutive marine heatwaves. Major bleaching and mortality also affected almost a quarter of deep water corals. Mining in the Galilee Basin poses risks to the natural environment which cannot be justified on the basis of a few mining companies' short-term profit. It is coal or the reef – the choice is that stark.

Other outcomes for the community

1.25 Doctors for the Environment state it is not possible to overemphasise the enormity of health, economic, security and environmental costs of an inadequate response to global warming. The World Health Organisation has said it will undermine half a century's improvements in health. Increased droughts, heatwaves, storms and flooding are already affecting the health of Australians.

1.26 The Wide Bay Burnett Environmental Council stated that further to climate and other environmental impacts, impending divestment from the coal industry means remediation costs will outweigh royalties, leaving stranded assets and disrupted communities.

1.27 Just as the thermal coal in the Galilee Basin would not be burned in Australia for energy, it is not just the Australian community who would be affected. The submission by the Australian Religious Response to Climate Change quotes the Potsdam Institute for Climate Impact Research and Climate Analytics, who in a study for the World Bank said the adverse effects of a warming climate are 'tilted against many of the world's poorest regions.' People around the world with less resources to adapt to a changing climate are the first to suffer the consequences of global warming.

1.28 This bill is an opportunity to stand up for that global community, as well as our country. It is an opportunity to support the view of most Australians that we should not mine the Galilee Basin for thermal coal. It is an opportunity to close a giant loop in our environmental protection framework, which relies on the courts to highlight the needs of future Australians. On that basis, like the overwhelming majority of submitters to this inquiry, the Australian Greens recommend that the bill should pass the Senate.

Senator Larissa Waters
Senator for Queensland

Appendix 1

Submissions

- 1 Wide Bay Burnett Environment Council Inc
- 2 Professor John Quiggin
- 3 Environment Council of Central Queensland
- 4 Australian Marine Conservation Society
- 5 Protect the Bush Alliance
- 6 Minerals Council of Australia
- 7 Black-throated Finch Recovery Team
- 8 Queensland Resources Council and CFMEU Mining and
Energy Division Queensland
- 9 Ms Gillian Reffell
- 10 Ms Judith Manitzky
- 11 Ms Huxley Hodgson
- 12 Doctors for the Environment Australia
- 13 Climate Change Balmain-Rozelle
- 14 350 Canberra
- 15 Ms Wendy Tubman
- 16 Lighter Footprints
- 17 Stop Adani Sydney
- 18 Coffs Coast Climate Action Group
- 19 Wynnum Manly Stop Adani
- 20 Catchment to Coast Consultants
- 21 Australian Farmers for Climate Action
- 22 Australian Religious Response to Climate Change
- 23 Darebin Climate Action Now
- 24 Bayside Climate Change Action Group
- 25 Mackay Conservation Group
- 26 Pitt Street Uniting Church
- 27 BirdLife Australia
- 28 Mr Edwin Adamson

29	Mr Timo Juntunen
30	Mr Mark Benton
31	Mr Phil Browne
32	Rev. Dr Jason John
33	Ms Kristyn Glanville
34	The Australia Institute
35	Institute for Energy Economics and Financial Analysis
36	Rockhampton Regional Council
37	Townsville Enterprise Limited
38	Resource Industry Network and Greater Whitsunday Alliance
39	Ms Karen Vegar
40	Mr Bernard Tonkin
41	Mr Simon Jones
42	Ms Helen Seligman
43	Ms Sally Carbines
44	Mr James Reid
45	Mr Trevor Scott
46	Mr John Lazarus
47	Mr John Garnett
48	Ms Kammy Cordner
49	Name Withheld
50	Stop Adani Cairns
51	Stop Adani Byron Shire
52	Mr Lindsay Creighton