

LOCK THE GATE ALLIANCE

AUSTRALIANS WORKING TOGETHER TO PROTECT OUR LAND, WATER, AND FUTURE

Reply to: Georgina Woods
Head of Research and Investigations

11 November 2025

Submission: Inquiry into *Environment Protection Reform Bill 2025* and six related Bills.

Thank you for the opportunity to make this submission.

Lock the Gate Alliance is a network of over 120,000 farmers, Traditional Owners, conservationists and community members from across Australia, affected by and concerned about the impacts of coal and unconventional gas mining. We live and work in the communities affected by these industries and undertake research, advocacy and support to protect the environment, cultural heritage and society from harm. Many of our members are regionally-based, and are also experiencing first-hand the consequences of the global warming.

Lock the Gate and the communities we work with have considerable experience with the operation of the *Environment Protection and Biodiversity Conservation Act 1999* and its deficiencies. Not only will the *Environment Protection Reform Bill 2025* not address these deficiencies, it will make the Act considerably worse.

Instead of writing new laws that actually respond to Australia's environmental crises and give effect to our international commitments to reverse the decline of biodiversity and include Traditional Owners, landholders and the broader public in environmental decision-making, the Government has brought forward legislation that entrenches the worst aspects of the EPBC Act and will exclude the public. The promised centrepiece, national environmental standards, are optional, incomplete and as drafted will make no material difference to the quality of environmental decision-making, nor do they provide clarity. They come along with shocking new fast-track processes, sweeping executive powers for tailoring processes at the behest of mining companies and other corporations that wield disproportional power and influence in Australia.

In this submission, we confine our comments to changes proposed to the process of assessment and granting of approvals, and means by which it is declared that approval is not required. We have not had time to examine the EPA Bill. We urge the Committee to investigate fully the matters raised in our and other submissions and prevent this Bill from passing.

Given remarks made by the Minister indicating he wishes the Bill to pass the parliament before the end of this month, we are making this submission early. We may make further supplementary submissions should the inquiry take its full reporting time and amendments be proposed that address the matter raised in this submission, or introduce new measures relevant to Lock the Gate's work.

Summary of issues

- The new process of “streamlined assessment” under a new Division 5A of Part 8 of the *EPBC Act* will enable the fast-tracking of any kind of development, no matter how harmful, with no community consultation.
- The proposed new “rulings” power, set out in section 572 of the *Environment Protection Reform Bill 2025* and creating a new Part 19C of the Act is an unprecedented power grab. It is anti-democratic and must be scrapped in its entirety.
- Currently, approval decisions for actions under the water trigger (sections 24D and 24E of the EPBC Act) cannot be dealt with in approval bilaterals (“accredited authorisation”) with the states and territories. Removing this provision will enable states and territories to fast-track fracking in the Kimberley and the Beetaloo Basin, or large new or expanded coal mines with no Commonwealth scrutiny or decision at all.
- Proposed changes to the accreditation process for approvals issued by the states would not only allow decisions under the water trigger to be accredited but would remove measures that currently constrain this “one stop shop” approach for actions affecting all matters of national and international significance. This is contrary to Samuel’s recommendations on this matter.
- We do not support the establishment of a “pay to destroy” offset scheme whereby developers are enabled to pay money into a fund in return for obtaining approval and in general the offsetting provisions of this Bill will enabling ongoing loss of biodiversity.
- The Bill introduces a need to supply limited greenhouse gas emissions information without providing any mechanism for this information to inform decision-making. We ask the committee to examine why the government is refusing the entirely reasonable proposition that Environment Ministers making approval decisions under the EPBC Act should turn their mind to the climate change consequences of the action in question.
- It would be negligent of the parliament to not include downstream greenhouse gas information and an assessment of the environmental impacts of climate change in the mandatory considerations for approval decisions, particularly given the recent Advisory Opinion of the International Court of Justice which indicates that approval of new fossil fuel production and supply may constitute a wrongful act under international law and expose Australia to legal action by aggrieved parties suffering the damages of worsening climate change.
- One of the most positive aspects of the Bill is the introduction of First Nations’ knowledge into the scientific listing and recovery process. We strongly support this inclusion, but urge the Committee to inquiry into why Indigenous knowledge is not also specifically valued and Indigenous consultation not specifically prescribed, for the assessment and approval of controlled actions.
- In the new provisions for bioregional plans, the “go” is irrevocable but the “no-go” can be easily bypassed. This is characteristic of the Bill overall.
- The promised “unacceptable impact” definition for threatened species and ecological communities are loaded with qualifiers and will enable the ongoing loss of habitat that is critical to the survival of even the most critically endangered species.

Making things worse

The *Environment Protection Reform Bill 2025* would make the EPBC Act significantly worse by creating sweeping new executive powers and multiple approval fast-tracks with little to no public accountability.

The Bill proposes extensive fast-tracking of all kinds of development, including coal mining and unconventional gas, and sweeping excessive executive power with no checks and balances.

The promised National Environmental Standard for Matters of National Environmental Significance is now out for public comment and will not ameliorate the profound negative consequences of this Bill. Even were the standard stronger, its application is discretionary, to be selectively prescribed in Regulation, and it and other standards can have their application tailored for proponents and projects by means of Ministerial “rulings,” or bypassed entirely under the extended national interest loophole. We note also that the power being proposed to create National Environmental Standards under the proposed new Part 19B is entirely discretionary - the Minister “may” create standards, but is under no obligation to do so. The parliament is being asked to approve these fast-track proposals and sweeping executive powers on the promise that there will be standards and they will be applied, but such a standard may never actually be made and, once made, can be set aside by various means. The fast-tracks and would remain in place.

Environmental protection clauses in the proposed Bill are discretionary and rely on a test known to be very difficult to test or enforce - that decisions “not be inconsistent with” various commitments, documents, standards and plans.

Australia’s biodiversity crisis and the broader degradation of natural ecosystems will not be addressed without giving effect to commitments the country has made to inclusive and participatory decision making and living in harmony with nature. This Bill has the opposite effect.

An outline of the most damaging new provisions is provided below.

The new “streamlined assessment” process

A new process of “streamlined assessment” under a new Division 5A of Part 8 of the *EPBC Act* is set to replace assessment by “Referral information,” “Preliminary Documentation” and “Public Environment Report.” The first of these is currently constrained by criteria set out in section 5.03A of the Regulations. These criteria include, inter alia, that “the potential scale and nature of the relevant impacts of the action can be predicted with a high level of confidence” and that “the relevant impacts are expected to be short term, easily reversible or small in scale.” No such restriction is proposed for the new streamlined assessment, nor is there any restriction of the type of activity that could be rapidly approved under this pathway.

The second two pathways being replaced both require public consultation but the new process will have no consultation whatsoever, nor publication of assessment documents prior to an approval decision being made. The only proviso for using this pathway is that the Minister be satisfied (after considering the usual statutory matters for assessment approach) that “the approach will allow the

Minister to make an informed decision” to approve the action and that greenhouse gas emissions information for the action has been provided.

Our analysis of 25 years of assessment pathway decisions under the EPBC Act indicates that around 60% of all controlled actions are assessed under the two public assessment pathways that are being abolished by this Bill. These include large mining projects, pipelines and transmission lines, onshore gasfields involving fracking, and large housing subdivisions. All of these are actions first deemed to have a significant impact on matters of national environmental significance.

This new fast-lane to approval cuts out local communities, Traditional Owners and the public from having a say in decisions on coal and gas, renewable energy and minerals mining. It could enable a wide variety of environmental harms with minimal scrutiny and oversight. To give the Committee a sense of the kinds of projects that might utilise this fast-lane, there are 20 coal and gas projects that have been approved or are still seeking approval via the pathways that would be replaced by this fast-lane in the last five years. These include:

- The two Hunter Valley Operations “Continuation Projects” – the largest coal mine project ever assessed in New South Wales, which would contribute close to 800 million tonnes of carbon dioxide to the atmosphere between now and 2050. This project will mine directly into the alluvial aquifer of the Hunter River.
- APLNG’s 4,300 well “Gas Security Supply” project – the biggest expansion of coal seam gas production assessed in Queensland in a decade which will clear hundreds of hectares of habitat that is “critical to the survival” of the threatened koala and will cause drawdown in Great Artesian Basin discharge springs;
- The first fracking project assessed under the expanded water trigger, called “Valhalla” – a proposal to drill and frack 20 gas exploration and appraisal wells in the Kimberley, upstream of the West Kimberley National Heritage Area.

Other projects that have used the Public Environment Report pathway in recent years include the Lee Point development in Darwin, large iron and gold mines and a large number of windfarms and electricity transmission projects. Transitional arrangements mean existing projects like those listed above would continue under the current arrangements, but any project of this nature could go through the 30 day fast-lane “Streamlined assessment” in the future and not be subject to any public consultation at all. Such an approach will lead to bad decisions, will further alienate regional communities and will enable incalculable environmental harm.

Devolution to the states and territories

Lock the Gate strongly opposes devolution of EPBC approval powers to the states and territories and the *Environment Protection Reform Bill 2025* as set out in the Bill sections 77 to 84 and 117-152. These changes would not only allow decisions under the water trigger to be accredited, but would remove key measures that currently constrain this “one stop shop” approach for all kinds of actions affecting all matters of national environmental significance. Specifically, the *Environment Protection Reform Bill* would remove the requirement that accredited authorisation mechanisms be “a law” and

the relevant approval be granted by an agency of the government. This introduces considerable laxity into the regime.

Currently, approval decisions for actions under the water trigger (sections 24D and 24E of the EPBC Act) cannot be dealt with in approval bilaterals (“accredited authorisation”) with the states and territories. Removing this provision will enable states and territories to fast-track fracking in the Kimberley and the Beetaloo Basin, or large new or expanded coal mines with no Commonwealth scrutiny or decision at all.

The water trigger was created with the cooperation of the then member for New England, Tony Windsor, in response to his concern about the impacts of proposed coal seam gas and coal mining on the fertile Liverpool Plains of New South Wales and the highly productive alluvial aquifers that support that food bowl. Scrutiny of the Watermark coal mine in that region by the Commonwealth government under the water trigger led to rigorous conditions being imposed on that project by then Environment Minister Greg Hunt ensuring that there was oversight of the water management plan and verification of the groundwater model prior to construction of the most high-risk portion of the mine. In the end, the company decided not to proceed with the mine and the agricultural productivity of the Liverpool Plains was not compromised. This is a demonstration of the crucial check and balance that Commonwealth approval power provides for matters of national environmental significance. It is extremely rare for the Federal Government to refuse a project a state or territory has approved. The importance of the Commonwealth retaining its approval power is not demonstrated by projects being refused: the fact that the final decision on matters of national environmental significance rests with the Commonwealth influences the entire process. Nonetheless, in a handful of instances, the Commonwealth *has* used its power to override a state or local authority approval, most recently, when Tanya Plibersek decided she would not approve the Toondah harbour development because of its unacceptable impacts on the Moreton Bay Ramsar site, and migratory birds and marine turtles.

The proposed Bill establishes that approval bilaterals could only be created with assurance that approval decisions will not result in unacceptable impacts and must be “not inconsistent with” prescribed standards. For the water trigger, the proposed definition of unacceptable impacts is an extreme case and not consistent with what the general public, and the communities we work with would consider “unacceptable.” We have reviewed the consultation draft of the national standard for Matters of National Environmental Significance and it is significantly weaker than the one proposed by Samuel and weaker than a draft that was subject to public consultation more than two years ago. The values of water protected by the water trigger include cultural values and this is not reflected in the standard at all, for example.

Approval bilaterals may also have the effect of weakening state assessment and decision frameworks. In the matter of greenhouse gas assessment, the proposed “greenhouse gas information” requirements under the *Environment Protection Reform Bill* are extremely limited and would represent a considerable step backwards from climate change considerations that are already routinely part of assessment and decision-making processes in NSW and Queensland. Just as we are concerned that some states do not have sufficiently robust assessment and decision-making frameworks to make decisions on matters of international importance, there is an inverse risk at the prospect that a weak

National Environmental Standards and EPBC assessment and approval requirements might down provisions already in place in some states under an approval bilateral. This would be the case with the proposal on greenhouse gas information.

Executive “rulings”

Perhaps the most alarming provision proposed in the draft law is the sweeping new powers of the Minister and the EPA CEO to publish opinions on how and when the law is actually applied (known as “rulings”). This extraordinary power could be used to circumvent court processes, limit public consultation, restrict the application of environmental standards or enable any manner of environmental harm.

The Bill has no accountability mechanism for these executive “rulings” which appear to be included for the express purpose of circumventing the public’s right to seek interpretation of the law in the Federal Court. The power proposed is so broad that it could be used, for example, to tailor the assessment, consultation process or decision-making parameters for particular, proponents, actions or industries.

This provision, set out in section 572 of the *Environment Protection Reform Bill 2025* and creating a new Part 19C of the Act is an unprecedented power grab, is fundamentally anti-democratic and must be scrapped in its entirety.

National interest loophole

The *Environment Protection and Biodiversity Conservation Act 1999* already has a provision whereby a Minister can switch off a provision of Part 3 of the Act if doing so is deemed to be in the national interest, but this provision is limited. Under the *Environment Reform Bill 2025* it will be entrenched, extended and formalised throughout the Act such that it may be used to approve almost any development regardless of its environmental impacts. The Minister and other Ministers have already speculated in the media since the Bill was introduced that this provision could be used to approve minerals mines or new gasfields, for example.

The existing provisions on the “national interest” only allows a national interest exemption from “a specific provision of Part 3” to be allowed, referring to these in the singular - “the provision” and “a provision” (not, for example, “any provision” or generally an exemption from all provisions once designated as national interest). Part 3 sets out the requirement for approval of actions that have a significant impact on matters of national environmental significance. Under this provision, “Australia's defence or security or a national emergency” are cited as examples of the national interest, though the category is not limited to this.

In addition to this existing provision, the new Bill creates a broad new power under proposed new section 157A to determine that an action is “a national interest proposal” with wide-ranging implications. This new measure adds “strategic interests” and “obligations under an agreement with one or more other countries” as possible categories of national interest. As with other executive powers being created by this Bill, there is little to no accountability built into this new power, which

enables the approval of unacceptable impacts, the bypassing of national standards and the hiding of information.

Offset payments

Lock the Gate does not support the establishment of a “pay to destroy” offset scheme whereby developers are enabled to pay money into a fund in return for obtaining approval to harm threatened habitats. In the time available to make a submission to this inquiry, we were not able to undertake detailed examination of the new proposals, but put on record our opposition to this proposal.

The Samuel Review noted the importance of bringing integrity to offsets under the *EPBC Act*. The Review found the Commonwealth’s Environmental Offsets Policy “contributes to environmental decline rather than active restoration.” Lock the Gate has witnessed numerous instances of biodiversity offsetting enabling the loss of irreplaceable habitat and the current Bill will entrench this pattern and is a serious backwards step from the existing practice of ad hoc bad decisions.

Failing to protect

In addition to the matters above, which considerably worsen the rigour of the process by which assessments are conducted and approval decisions are made under the *EPBC Act*, the proposed environmental protection measures are too weak or absent to address the fundamental failings of the *EPBC Act*. Specifically, the proposed new “greenhouse gas information” requirements fall woefully short of the basic mechanisms necessary to protect Australia’s natural heritage from climate change, but we are also concerned about the uncertainty about whether there will be any National Environmental Standards, and the limitations of the definitions of unacceptable impacts. We support the inclusion of specific consultation with the Indigenous Advisory Committee in the listing of species and preparation of advice statements and National Environmental Standards, but the Bill fails to consistently apply this measure, notably in the development of bioregional plans and Strategic assessments and in the assessment of controlled actions.

Climate change

The Bill introduces a need to supply limited greenhouse gas emissions information without providing any mechanism for this information to inform decision-making. We ask the committee to examine why the government is refusing the entirely reasonable proposition that Environment Ministers making approval decisions under the *EPBC Act* should turn their mind to the climate change consequences of the action in question.

It would be negligent of the parliament to not include downstream greenhouse gas information and an assessment of the environmental impacts of climate change in the mandatory considerations for approval decisions, particularly given the recent Advisory Opinion of the International Court of Justice which indicates that approval of new fossil fuel production and supply may constitute a wrongful act under international law and expose Australia to legal action by aggrieved parties suffering the damages of worsening climate change. Such information and considerations are in any

case routinely provided and canvassed for high-emitting activities seeking approval in New South Wales and Queensland. Were the Commonwealth to adopt this piece meal and blindfold approach, it may well have the effect of lowering the standard of decision-making in those states.

These amendments are absolutely critical. By contributing to climate change, actions assessed under the EPBC Act are intensifying wide-reaching and irreversible harm to all matters of national environmental significance. In the time available, we are not able to summarise the findings of the Australia's first National Climate Risk Assessment, which itemised a devastating prognosis for Australia's marine, freshwater and terrestrial ecosystems across the continent. However, we reproduce below a graphic from that assessment.

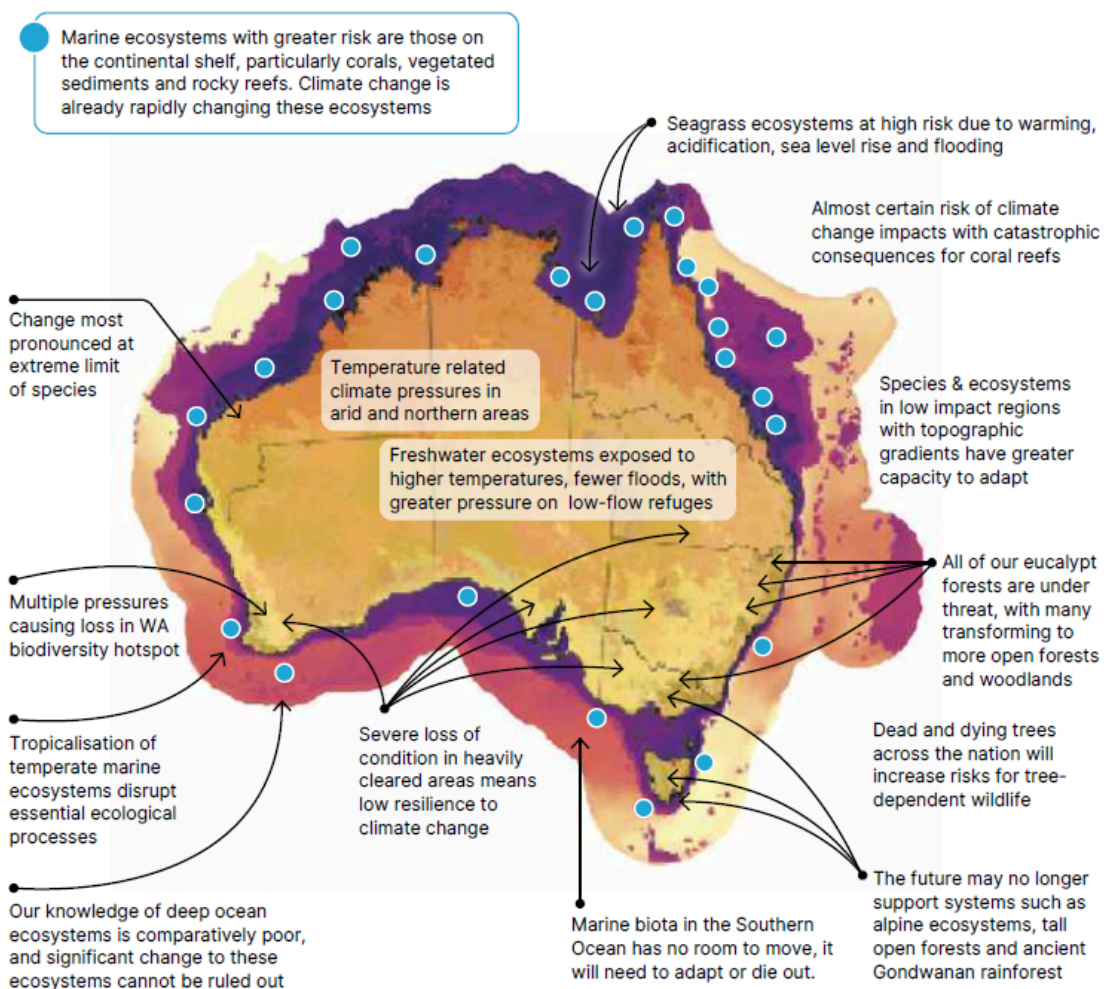


Figure 76: All levels of biodiversity will be affected by a changing climate in the future. Examples of changes are indicated in the map. (Source: *Natural Ecosystems Technical Report*)

The NCRA found that:

- Climate change and other human influences on the landscape have already had a negative impact on Australia's marine, terrestrial and freshwater environments, and several local ecosystems have already collapsed;
- Ecosystem collapse at the local level has been noted in at least 17 of Australia's ecosystems, spanning marine, terrestrial and freshwater environments;
- By 2050, species will be forced to move, adapt to the new conditions or die out, with 40–70% of native plant species needing to respond to the changed climatic conditions in their original range. There will be a lag before the impacts are realised, but over the long term, species will be forced to move, adapt or perish;
- All of these changes will have profound flow-on consequences for primary industries, community wellbeing and safety and social cohesion.

Furthermore, the Synthesis Report of the IPCC's Sixth Assessment Report noted that "Safeguarding biodiversity and ecosystems is fundamental to climate resilient development, but biodiversity and ecosystem services have limited capacity to adapt to increasing global warming levels, making climate resilient development progressively harder to achieve beyond 1.5°C warming." Holding global warming to below 2 degrees means dramatically reducing the use of coal oil and gas globally. The Australian government must have the basic decision-making tools in place to take part in this global effort and this means removing the climate blindfold in the *EPBC Act*. At the very least, this could be done by removing the definition of "indirect impact" from section 527E of the Act, but several reasonable proposals for more robust and integrated consideration of climate change impacts have been provided to the government.

Indigenous involvement in decision-making

One of the most important aspects of the Bill is the introduction of First Nations' knowledge into the scientific listing and recovery process. We strongly support this inclusion, but urge the Committee to inquire into why Indigenous knowledge is not also specifically valued and Indigenous consultation not specifically prescribed for the assessment and approval of controlled actions.

In the parts of the Bill that deal with scientific advice, it is provided that these processes take into account "the significance of Indigenous peoples' knowledge of the management of land, sea and seabed, airspace and water, and the conservation and sustainable use of biodiversity." This knowledge and participatory decision-making processes need to be embedded everywhere in the Act. As for information about greenhouse emissions and climate change, gathering of Indigenous knowledge must be made practical by giving effect to that knowledge in decision-making. Specific consultation with the Indigenous Advisory Committee and seeking of Indigenous knowledge and significance must be embedded in the making of Bioregional Plans and the assessment and approval decision frameworks, with this knowledge adequately reflected in the mandatory considerations for these processes.

Prohibited development in "no-go" zones

In the time available, we have not had the opportunity to properly scrutinise the provisions laid out in this Bill regarding Bioregional Plans, which are extensive. We note that "Registered actions" in

development areas of Bioregional Plans will not need to be referred for decision or assessment. Such development will effectively be exempt from the *EPBC Act*, whilst “no go” zones in those plans will have a pathway whereby approval for prohibited developments can be applied for and granted. In short, there is a go, but there is no “no-go.”

Unacceptable impacts

The promised “unacceptable impact” definitions for threatened species and ecological communities are loaded with qualifiers and will enable the ongoing loss of habitat that is critical to the survival of even the most critically endangered species.

One of the few developments that have been refused under the existing EPBC Act was the Toondah harbour development in the Moreton Bay Ramsar area. The Minister refused this project on the grounds that it would have unacceptable impacts on the Ramsar site and on threatened and migratory species including loggerhead and green turtles, the eastern curlew and the grey-tailed tattler. There was no definition in place, but an assessment was made that the impact was of sufficient scale to justify refusal. It is not at all clear that the definitions provided in the Bill will mean a “quick no” and prevent a situation where projects spend years undergoing assessment before such a judgment is made.

We offer a further example. Whitehaven Coal is seeking approval to expand its Maules Creek coal mine, which has already cleared hundreds of hectares of critically endangered woodland in Leard State Forest in north west NSW. The expansion of the mine would remove 483 hectares of “exceptionally high quality” foraging habitat for the critically endangered Swift parrot and Regent honeyeater, according to the NSW environment agency, which has no approval or concurrent power for this development under NSW planning law. The Recovery Plans for these species are very clear that protection of known foraging habitat is crucial for the survival of these species and the Swift parrot in particular has been seen in significant numbers, repeatedly, in the vicinity of the development in recent years. This habitat meets the Recovery Plan definition of being “critical to the survival” of the Swift Parrot, but for this impact to be deemed “unacceptable” it would need to “cause **serious** damage to critical habitat of the listed threatened species **where the habitat is irreplaceable and necessary** for the listed threatened species **to remain viable in the wild.**” There are four tests here, each of which would not be conceded by the proponent are met by the action they’re proposing to take. In this circumstance, there is no “quick no.” Determining whether the Maules Creek Continuation Project would have unacceptable impact as defined above will take considerable time and assessment before a conclusion is reached. The proponent is already claiming that the impact is acceptable. A “quick no” will only be invoked if the definition accords with existing definitions, such as “critical to survival.”

Conclusion

In December 2022, the 15th Conference of the Parties to the Convention on Biological Diversity adopted the Kunming-Montreal Global Biodiversity Framework. This Framework is the equivalent of the Paris Climate Agreement for biodiversity and commits the parties to the Convention, including Australia, to a series of four ambitious 2050 goals to reverse biodiversity loss. These include halting

extinction and maintaining, enhancing or restoring the integrity, connectivity and resilience of all ecosystems. The Framework adopted 23 targets for action by 2030, designed to achieve these goals and the conservation, restoration and proper valuation of biodiversity.

Australia is yet to implement the framework. To give effect to its international commitments, Australia needs to incorporate the goals of preventing extinction and restoring biodiversity into its national laws, and enact laws that give effect to commitments to inclusive and participatory decision making and living in harmony with nature.

The global assessment by the Intergovernmental Panel on Biodiversity and Ecosystem Services, the IPCC of biodiversity, found that “Goals for conserving and sustainably using nature and achieving sustainability cannot be met by current trajectories, and goals for 2030 and beyond may only be achieved through transformative changes across economic, social, political and technological factors.” A footnote to this statement clarifies that transformative change in this context means “a fundamental, system-wide reorganization across technological, economic and social factors, including paradigms, goals and values.” We urge the Committee to review the proposed Bill in light of this clear statement of the scope of the problem and its solutions.