

15th March 2024

Senate Standing Committees on Economics
PO Box 6100
Parliament House
Canberra ACT 2600
economics.sen@aph.gov.au



**RE: Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment
(Safety and Other Measures) Bill 2024 [Provisions]**

Thank you for this opportunity to make a submission to the consultation process on the Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other Measures) Bill 2024 ("the Bill").

I am a Senior Lecturer based at the University of New South Wales, Canberra, with expertise in biodiversity conservation and environmental policy. I am actively engaged in the government's Nature Positive law reform agenda and was one of five independent academic experts who participated in Professor Graeme Samuel AC's Consultative Group as part of the Independent Review of the *EPBC Act 1999* in 2020.

I am deeply concerned about the proposed amendments to the Bill – specifically, section 790E, within Part 2. I am providing an excerpt of this section below in full, as it is breathtaking in its audacity and implications:

790E Approval under *Environment Protection and Biodiversity Conservation Act 1999*—interaction with this Act and Environment Regulations

- (1) If:
- (a) a person engages in conduct in accordance with this Act or prescribed regulations made under this Act, as in force from time to time, in relation to a relevant action; and
 - (b) for the purposes of the Offshore Petroleum and Greenhouse Gas Storage approval, the relevant action would not (apart from this section) be taken in accordance with the Offshore Petroleum and Greenhouse Gas Storage endorsed program only because the person engaged in the conduct;
- then, despite the conduct, section 146D of the *Environment Protection and Biodiversity Conservation Act 1999* applies in relation to the approval and the taking of the relevant action as if the relevant action had been taken in accordance with the endorsed program.

This proposed amendment effectively says that, if an action is proposed but does not meet the requirements of an endorsed program for offshore petroleum or greenhouse gas storage under environmental laws, **then despite not meeting those requirements, the action should be considered as being compliant** with the existing 2014 accreditation for offshore petroleum or greenhouse gas storage under the *EPBC Act 1999*.

This is utterly illogical and regressive. This amendment would allow a subset of our community to commit an act that breaks the law, but to legally endorse that act as not breaking the law. It is seeking to define in law that "*not... in accordance*" to be "*as if...in accordance*". It is completely absurd, dangerous, inequitable, and harmful.

Why should one industry be provided preferential treatment over others? This amendment effectively provides offshore petroleum or greenhouse gas storage immunity under strengthened environmental laws: environmental laws that the Australian government committed to strengthening, given their well-documented failure to effectively prevent harm to Australia's globally unique and threatened biodiversity.

That this proposed amendment has been tabled in parliament by the federal government *before* it has even publicly consulted on its proposed new "nature positive" laws set to replace the EPBC Act is an insult to all other stakeholders, and the entire Australian community. It is a slap in the face to stakeholders who are, in good faith – and despite significant delays from government – currently working to provide feedback on draft National Environmental Standards, Discussion Papers and draft Nature Positive legislation that the federal government is providing in their targeted ("lock up") consultations.

To be clear – the proposed amendment would render completely pointless any improvements made to environmental laws, since it carves out a loophole for *just one regulated industry*, which just happens to contribute disproportionate environmental harm.

All businesses want certainty, but Part 2 of this Bill provides preferential treatment to a very small number of businesses. Strengthened regulations (especially after the second legislated decadal review of the EPBC Act) are a reality that businesses must anticipate. A business who has not heard of nature-related risks and how to mitigate them, or the Taskforce for Nature-related Financial Disclosures (an initiative the Australian Government has invested heavily in), is a business that is living under a rock and denying reality. If a business cannot effectively factor regulatory risk into its decision-making, perhaps it is simply not a competitive business.

This proposed amendment communicates very clearly that the federal government is not serious about environmental law reform, its commitment to "nature positive" is for marketing only, and it is happy for biodiversity loss and climate change to worsen despite all available scientific evidence, community sentiment, and the efforts of other regulated industries to address nature-related risks as part of their business models.

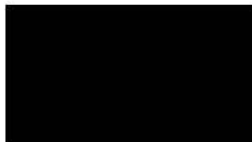
If the government does truly commit to "nature positive" environmental laws, **it must remove Part 2 of this Bill.**

I strongly agree with the submissions put forward by the Biodiversity Council and the Environmental Defenders Office.

I strongly recommend that Part 2 of this Bill be omitted (in line with the amendment put forward by Zali Steggall MP)

I welcome the opportunity to provide any further assistance or input going forward.

Yours sincerely,



Dr Megan Evans
University of New South Wales, Canberra

