



## Submission

### Senate Economics Legislation Committee Inquiry into amendments Offshore Petroleum and Greenhouse Gas Storage Legislation Amendment (Safety and Other Measures) Bill 2024

7 March 2024

#### Introduction

Friends of the Earth Australia appreciates the opportunity to provide a submission to the committee regarding this Bill. We submit that the following section (Schedule 2; Part 2) be deleted from the amendments. The amendment would take environmental approval powers away from the Environment Minister and give them to the Resources Minister.

With the extensive reform process which is currently occurring around the federal environmental laws (the *Environment Protection and Biodiversity Conservation Act*) which is intended to increase oversight and transparency of government decision making, it would be entirely inappropriate to pre-empt the outcome of the review process by shifting decision making powers between ministers in the way proposed by the amendment.

The amendments also preclude Free, Prior and Informed Consent as defined within the UN Declaration on the Rights of Indigenous Peoples.

#### Background

Friends of the Earth (FoE) is an international federation of grassroots organisations with chapters across Australia and more than 50,000 active supporters. Our federation includes other well-known grassroots groups, such as School Strike for Climate and Market Forces.

FoE Australia (FoEA) is of the firm opinion that Schedule 2; Part 2 of the amendments breaks centuries old conventions of the Westminster parliamentary system which is designed to ensure checks and balances within the Federal Executive Council. These are designed to advise the Governor General, the executive powers of Ministers of State, and the balance of powers within Federal Cabinet. As such, it is contrary to the implied systems within the Australian Constitution.

This section of the amendments can be expected to result in costly and lengthy constitutional law battles in the High Court. We urge the Senate to seek constitutional legal advice on this matter.

The political reality is that there is a public perception that executive administrators are deeply connected to – and in some instances – captured by the fossil fuel industry. To grant decision making powers to a resources minister would send a message to the community that the government is willing to remove environmental considerations from the decision-making process thereby facilitating continued fossil fuel developments.

### **Conclusion**

FoEA submits that Schedule 2; Part 2 of the amendments is likely to be unlawful in the context of Westminster Government, and undermines Australian international agreements in relation to Indigenous peoples.

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