



Committee Secretary
Senate Standing Committees on Environment and Communications
PO Box 6100
Parliament House
Canberra ACT 2600
By email: ec.sen@aph.gov.au

25 July 2024

To the Committee Secretary,

**Inquiry into the Nature Positive (Environment Protection Australia) Bill 2024 [Provisions]
and related bills**

The Central Land Council (CLC) thanks the Committee for its invitation to appear at a hearing regarding the Nature Positive (Environment Protection Australia) Bill 2024 [Provisions] and related bills.

Unfortunately the CLC is unable to appear before the Committee, but we would like to provide you with this short letter for your consideration, and refer you to our submission (made in April this year) to the Department of Climate Change, Energy, the Environment and Water (DCCEEW) regarding their October and December 2023 consultation materials on new 'Nature Positive' laws¹ (Attachment A).

In summary, the CLC welcomes the establishment of an independent national environmental regulator. We are concerned, however, that the substantive reforms to strengthen the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) have been paused. We hope that work on these 'Stage 3' reforms recommences soon. In doing so, we urge the Australian Government to substantially improve its engagement with traditional owners and land councils and take the feedback we have provided to date into account. This engagement must cross the breadth of the proposed reforms and not simply be confined to the National Environmental Standard (NES) on *First Nations engagement and participation in decision-making*.

Our functions

The CLC is a Commonwealth corporate entity established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA), with statutory responsibilities for Aboriginal land acquisition and land management in the southern half of the Northern Territory (NT) – an area spanning around 780,000 km² (almost the same size as New South Wales). We are one of four NT Aboriginal land councils established under the ALRA. ALRA was the first Commonwealth law to recognise Aboriginal systems of land ownership. Land rights asserted under ALRA are unique and the strongest form of land rights in the country, being inalienable Aboriginal freehold title. In addition to our functions under ALRA, the CLC is a Native Title Representative Body (NTRB) established under the *Native Title Act 1993* (NTA) for our region.² The CLC also assists many Aboriginal Community Living Area (CLA) landholding bodies to grant interests in CLA land and meet their reporting obligations.³

¹ CLC (April 2024) Submission on the October and December 2023 consultation materials on new 'Nature Positive' laws (Reform of the Environment Protection and Biodiversity Conservation Act 1999 (Cth)) (<https://www.clc.org.au/submission-on-new-nature-positive-laws-epbc-act-reform-oct-and-dec-2023-consultation-materials/>)

² See s 203AD.

³ CLAs are small areas of land, excised from pastoral leases, to which Aboriginal people have succeeded in obtaining rights.

CLA land is an estate in fee simple held by a community association formed under the *Associations Act 2003* (NT) or the

Associations (Aboriginal Land and Torres Strait Islands) Act 2006 (Cth). See *Restoral Land Act 1982* (NT) (8953 4343 ABN 71 979 619 393)



The CLC is governed by an elected representative Council of 90 community delegates. Through this Council, we represent the interests and aspirations of approximately 20,000 traditional landowners and other Aboriginal people resident in our region. We advocate for our people on a wide range of land-based and socio-political issues to ensure that our families can continue to survive and thrive on their land, and undertake a range of programs reflecting the priorities and to the benefit of our constituents.

Our specific consultative and representative functions under ALRA and the NTA give us a clear interest in the development of new national environmental laws on behalf of our constituents.

Our region

The land and waters in the CLC region are geographically diverse, spanning sand plains, mountain ranges and river channels from the very dry Simpson Desert in the south-east, to relatively wet savannas in the north. Our region has some of the most intact desert landscapes on earth and is home to unique species of flora and fauna. This geography and these ecosystems have shaped the cultures of Aboriginal people living on different parts of the country over millennia.

In the development of new laws to protect nature, it is essential to recognise that Aboriginal and Torres Strait Islander people are the first land and environmental managers. Following the millennia of sustainable management by Aboriginal people, what was once a thriving managed landscape across the NT is now suffering the effects of around two centuries of non-Indigenous settlement, pastoralism, mining and other land-use.⁴ The impacts of climate change are similarly alarming, and are compounding the threats to our already fragile ecosystems. The lack of strong protections for arid-zone ecosystems is particularly concerning when we consider the evidence of ecosystem collapse and biodiversity decline.⁵

There is a clear and urgent need for a substantial and sustained increase in protections for ecosystems and biodiversity in Central Australia. This must be done in a way that is inclusive of Aboriginal people, respects their knowledge and expertise, and resources Aboriginal people to lead the work.

Improving engagement with traditional owners under Stage 3 of the Nature Positive law reforms

Substantive reform of the EPBC Act is essential and overdue. The CLC has welcomed the Australian Government's commitment to new 'Nature Positive' national environmental laws. However, the extent to which a new regime protects the rights and interests of and contributes to better outcomes for our people will depend on the detailed design and the strength of pathways and protections embedded in new legislation. We remain, therefore, extremely disappointed at the minimal effort made by the Australian Government to consult directly with traditional owners and their representative Aboriginal organisations about its new 'Nature Positive' laws to date.

⁴ CLC (April 2024), p.4

⁵ The western-central arid zone ecosystem, covering the CLC region, is undergoing ecological collapse (see Bergstrom, D, Wienecke, B, van den Hoff, J, Hughes, L, Lindenmayer, D, Ainsworth, T, Baker, C, Bland, L, Bowman, D, Brooks, S, and Canadell, J. 2021. Combating ecosystem collapse from the tropics to the Antarctic. *Global change biology*, 27(9), pp.1692-1703, see p.1693-4) and Central Australia is at the forefront of the mammalian extinction globally (see Foley, M. (2020) 'Why is Australia a global leader in wildlife extinctions?', *Sydney Morning Herald*; Morton, A. (2021) 'Australia confirms extinction of 13 more species, including first reptile since colonisation', *The Guardian*; NT Government 2024, 'Threatened animals' and 'Threatened plants' (<https://nt.gov.au/environment/animals/threatened-animals>,



The CLC made two fulsome submissions regarding the new Nature Repair Market in March and June 2023⁶ ('Stage 1' of the 'Nature Positive' law reforms). These submissions made numerous recommendations to strengthen recognition and protection of the rights and interests of Aboriginal and Torres Strait Islander peoples. Almost none of these were adopted in the final legislation.

The lack of engagement with land councils in the following stage of legislative reform was similarly concerning. As expressed in our April 2024 submission on the October and December 2023 consultation materials for the (now paused) EPBC Act reforms: not only has that lack of consultation so far by-passed the opportunity for this knowledge to enrich the reforms, it has ignored the degree to which these reforms impact on the rights and interests of Aboriginal and Torres Strait Islander people, and disregarded the land councils' statutory functions.⁷

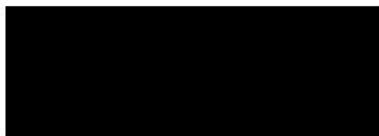
We therefore urge the Australian Government to do more to meaningfully engage with traditional owners and their representative organisations in the development of the next stage of reforms.

As highlighted above and outlined in our April 2024 submission, engagement with land councils and other representative Aboriginal organisations should not be confined to the development of the NES on *First Nations engagement and participation in decision-making*. The 'closed-shop' approach the government has taken to the reform consultations to date ignores the deep working knowledge that land councils have, via our constituents, about Country – knowledge that would add inestimable value to the targeted consultations on the whole suite of reforms, not just the elements perceived to be First Nations-specific.⁸

In developing its timelines for reform, the CLC urges the government to recognise the time and resources it takes to meaningfully and appropriately engage traditional owners. If the government is serious about better partnerships with First Nations people, as outlined in its Nature Positive Plan, its consultation approach will allow for this. Further to this, we urge direct engagement with the NT land councils specifically, acknowledging the unique legislative context in which we operate.

We thank the Committee again for the opportunity to provide input and look forward to closer engagement with government as the next stage of reforms proceeds.

Yours sincerely,



Mischa Cartwright
ACTING CHIEF EXECUTIVE OFFICER

⁶ See CLC submission on the exposure draft of the Nature Repair Market bill (March 2023) (<https://www.clc.org.au/wp-content/uploads/230306-CLC-submission-on-the-exposure-draft-of-the-Nature-Repair-Market-bill-FINAL-002.pdf>) and CLC submission to this Committee's inquiry into the Nature Repair Market Bill 2023 and Nature Repair Market (Consequential Amendments) Bill 2023 [Provisions] (<https://www.clc.org.au/clc-submission-senate-inquiry-nature-repair-market-bill-2023/>)

⁷ CLC (April 2024), p.9