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Promoting conservation and sustainable management of  
Australia's cave and karst environments

Reply to: Dr Clare Buswell. Chair, Conservation Commission of the ASF.

26.11.2025

Chair of Environment and Communications  
References Committee.  
Parliament House  
Canberra.

Dear Committee Members.

### Re The Proposed New EPBC Act

There's a couple of questions bothering me about the proposed new EPBC Act's seven Bills.

1) Would this new legislation save Juuken Gorge Caves?

2) Would it save the WA side of the Nullarbor from the Western Green Energy Hub, (WGEH) a development one third of the size of Tasmania, masquerading as renewable energy project to produce ammonia and hydrogen for export?

3) Or would the WGEH development, which is currently being assessed by DCCEEW, be assessed under the new Act, by the Minister 'as in the national interest'? If so approved, it would cause irreparable damage to the karst landscape. A landscape that no offsetting, mitigation or payment into a fund will ever, ever replace.

Can the committee answer these questions in relation to the proposed new Act?

I am the Chair of Conservation Commission of the Australian Speleological Federation, (ASF). This is Australia's peak national body of speleologists with 25 member societies representing 1,000 individuals. It is a volunteer-based organization with no commercial interests, whose membership is self-funded. Its aims and objectives are to explore, document, conserve, and educate members of the public about, the caves and karst of Australia.

The Commission is further tasked with advocating for the better management and protection of caves and karst on both public and private land. The Commission provides information to its members, land managers, governments and others about karst conservation matters and provides advice on courses of action.

### Comments on the new EPBC Act

#### It gives the Minister too much power:

- Under the new Act the minister of the day has wide powers to approve developments as the minister only 'has to be satisfied', or 'have regard to' any matter the Minister 'considers' relevant or 'in the national interest'. The words 'satisfied', 'have regard to' and 'considers' are subjective terms, with no basis in fact or science. Such terms leave the minister's decisions open to both legal action and lobbying pressure.

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- The new ‘national interest proposal’ exemption power should be removed as what is ‘a national interest’ is not defined, and it gives the minister of the day unfettered discretion to apply the exemption. The Samuel Review was clear that the minister’s discretion was to be applied as last resort action, confined to a national emergency. The new Act dismisses this recommendation.
- The fact that the National Environmental Standards have not yet been drafted, and have the legal status of regulations, further implies that the protection of our environment is dependent upon ministerial decree only.

**The National Environmental Protection Authority**

- The development of a National Environmental Protection Authority, (NEPA) is a welcome improvement, however as it is currently envisaged, has little power. It cannot assess or approve developments. Its decisions can be overridden by the minister, or the federal environment department. It is thus not independent of political interference.
- A new NEPA must be able to assess and approve developments, enforce its decisions by issuing stop orders, and impose serious fines for breaches of the Act. It must be well funded.

**The Dangers of Devolving Powers to the States**

- The new EPBC Act, via devolving its powers to the states, would place environmental protection - landscapes, water, forests, habitats - within the often-conflicting Acts of state parliaments.
- The disaster of Juukan Gorge allowed under the WA Government’s 1974 Aboriginal Heritage Act illustrates the danger of devolving national powers to the states. This was a cave of known national heritage importance, a place of significant refugia during the last Ice Age and thus important both as an environmental heritage site and for its cultural heritage. It had no protection under state law. Federal laws should have then and under the proposed Act must protect such sites.
- The years lost to arguments over water in the Murray River Basin is another case in point. The establishment of the Murray-Darling Basin Authority removed decision making powers on water allocation from the states to good environmental affect.
- Devolving powers, ignores the fact that habitats, waters, forests, landforms cross and in some cases form state borders, thus need national legislative protection.
- The Act cannot allow the federal gov’t to abrogate its responsibilities to underfunded state agencies, which are often subject to the political machinations of the government of the day.
- The current EPBC Act prevents any devolution of the water trigger to ensure protection of water resources – this exemption must remain.

**Public Consultation**

- As the Bills stand a pathway of effective and informed public consultation on development proposals at all levels of the review process: (assessments, approvals, etc,) is not supported.
- Reducing public consultation on matters that effect farmers, communities on whose land developments impinge or those who believe in protecting Australia’s natural world, means they will be forced to use the courts to obtain environmental protection for nature. As the Bills stand public consultation is constrained and is thus, ineffective.

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Conclusion

To return to the questions asked at the beginning of this submission, if the new Act would NOT protect Juuken Gorge caves or in the case of the Nullarbor, the largest piece of arid karst in the world and one that meets *a//* World Heritage criteria, then this Act in its current form fails to protect our environment and thus us.

These bills in their current form should not be passed until the issues raised are addressed.

Sincerely,

Dr Clare Buswell  
Chair, Conservation Commission,  
Caves Australia

