Submission to the Productivity Commission: Interim Report on "Investing in Cheaper, Cleaner Energy and the Net-Zero Transformation"

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Author: Dr Anne S Smith, Rainforest Reserves Australia

Executive Summary

Rainforest Reserves Australia welcomes the opportunity to provide feedback on the Productivity Commission's Interim Report, *Investing in Cheaper, Cleaner Energy and the Net-Zero Transformation*. While we recognise the need to address the climate agenda, we are deeply concerned that the interim report presents a skewed view of the transition, gaslighting Australians by framing industrial energy as cheaper when in reality it is financially destabilising the economy, forcing businesses to close, and undermining national resilience. False carbon accounting compounds these issues, making a mockery of the very concept of cleaner energy.

The Commission's recommendations, including the early phase-out of subsidies by 2030, the lowering of the Safeguard Mechanism threshold to capture mid-tier businesses, fast-tracking of environmental approvals, and a heavy reliance on theoretical carbon values – all risk intensifying ecological destruction, destabilising regional economies, and eroding productivity. By downplaying or ignoring the real costs of industrial renewables, the interim report misleads policymakers and the public alike.

Evidence from Australian and international studies shows that subsidy withdrawal too early leads to sharp rises in energy prices and inequitable burdens on vulnerable communities. Lowering safeguard thresholds shifts the regulatory weight onto SMEs with limited capacity to absorb compliance costs. Fast-tracking approvals under the EPBC Act has already led to habitat destruction, biodiversity loss, and degradation of natural capital. Meanwhile, reliance on speculative carbon valuation rather than robust lifecycle analysis conceals the true emissions and pollution footprint of renewables, including PFAS contamination, blade shedding, and decommissioning waste.

The broader impacts of these flawed approaches are evident: rising electricity bills across households and businesses, closures in energy-intensive sectors, increased strain on regional communities, and a growing erosion of public trust in the energy transition. These outcomes directly contradict the Commission's own goals of enhancing national productivity and securing long-term prosperity.

In this submission we present evidence-based counter arguments, case examples, and academic references to demonstrate why the Commission's current pathway is unsustainable. We also set out alternative policy measures that ensure any transition to net zero is responsible, credible, and just. Our recommendations include: extending subsidies until realistic deployment milestones are met, adopting tiered safeguard mechanisms to protect SMEs, embedding rigorous cumulative environmental assessments in approval processes, and requiring comprehensive lifecycle carbon accounting.

Above all, this submission urges the Commission to restore integrity and transparency to the national climate agenda. Productivity cannot be achieved at the expense of ecological collapse, community destabilisation, or economic fragility. Only a balanced, honest, and evidence-driven policy framework can deliver both environmental and economic security for Australia.

Beyond ecological and economic risks, these proposals also collide with binding legal constraints. The Environment Protection and Biodiversity Conservation Act is grounded in the Australian Constitution, giving effect to international treaty obligations under the World Heritage, Ramsar and Biodiversity Conventions. High Court precedent — from the *Tasmanian Dam Case* to *Plaintiff S157* and *Wurridjal* — makes it clear that attempts to carve renewable energy out of federal oversight, to limit judicial review, or to reclassify land without just terms would invite immediate constitutional challenge. In short, the Commission is not merely advancing a flawed policy framework; it is proposing reforms that are almost certainly unlawful, unenforceable, and destined to fail in the courts.

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1. Context

The Dangerous Proposed Amendments to the EPBC Act

One of the most concerning aspects of the interim report is its call to amend and streamline the Environment Protection and Biodiversity Conservation (EPBC) Act specifically for renewable energy projects. To our knowledge, this would be the first time in Australia's legislative history that an industry is carved out of full federal environmental oversight. This effectively removes guardrails that were put in place to protect threatened species, critical habitats, and matters of national environmental significance.

The proposals include:

- **Fast-tracked approvals** for wind, solar, transmission, and battery projects by reducing assessment timelines and bypassing independent review.
- **Changed land status**, where agricultural, forestry, or remnant native land can be reclassified as "industrial energy precincts," allowing clearing and infrastructure development that would otherwise be prohibited.
- **Reduced cumulative assessment obligations**, meaning projects would be considered in isolation rather than accounting for the combined impacts of multiple developments across regions.
- **Delegation to state authorities for approvals**, removing the independent federal check that is meant to safeguard national environmental assets.

- **Introduction of strategic approvals for Renewable Energy Zones**, where once a region is declared, projects within it would receive automatic or simplified consent regardless of local environmental sensitivities.

This goes beyond administrative change; it represents a structural dismantling of the EPBC Act's core protections. Never before has a single industry been granted such exemptions from national environmental guardrails. The precedent is alarming: if renewable energy is permitted to bypass federal checks, other industries may demand the same treatment, leading to a cascading erosion of environmental law.

Why These Amendments Cannot Legally Stand

The government faces **significant legal obstructions** to implementing such reforms:

1. **Constitutional Basis of the EPBC Act**
   - The EPBC Act is grounded in the Commonwealth's powers under **s 51(xxix) of the Constitution (external affairs power)** to implement international treaties, including the **Convention on Biological Diversity**, the **World Heritage Convention**, the **Ramsar Convention**, and the **Bonn Convention on Migratory Species**.
   - Weakening the Act to exempt a whole industry from compliance would likely place Australia in breach of these treaties. Any law that undermines treaty implementation risks being declared unconstitutional if challenged in the High Court, because it fails to give genuine effect to international obligations.
2. **Administrative Law Principles**
   - The **rule of law** requires that decisions be subject to independent review. Removing or bypassing merits review and judicial review pathways for renewable energy projects could be struck down as a denial of **procedural fairness**.
   - If the government attempted to limit standing or silence community objections, this would almost certainly face **High Court challenge** under principles established in cases such as *Plaintiff S157/2002 v Commonwealth*, which affirmed that legislative attempts to oust judicial review are constitutionally limited.
3. **Property and Land Rights Conflicts**
   - Reclassifying agricultural or conservation land as "industrial energy precincts" without proper compensation may contravene **s 51(xxxi) of the Constitution** (the "just terms" provision), which prohibits the Commonwealth from acquiring property other than on just terms. Farmers, traditional owners, and landholders would be able to challenge such reclassifications in the courts.
4. **Inconsistency with State Laws (s 109 Constitution)**
   - If the Commonwealth delegated approval powers to states while simultaneously carving out exemptions, conflicts with stricter state conservation laws would trigger **s 109 of the Constitution**. This would render state protections inoperative to the extent of inconsistency, further undermining federalism and creating significant legal uncertainty.
5. **International Law and Reputational Risk**
   - Weakening the EPBC Act would risk Australia being found in breach of its obligations under international environmental treaties. This could expose the

Commonwealth to challenges in international forums, trade repercussions, and formal censure, which carry both legal and diplomatic consequences.

Why This Is Dangerous

- It enables industrialisation of landscapes that were previously protected, including remnant forests, prime farmland, Ramsar wetlands, and marine zones.
- It places threatened species such as koalas, brolgas, greater gliders, and migratory shorebirds at heightened risk by removing proper habitat assessments.
- It creates legal uncertainty, as once land is reclassified as "industrial," communities and conservation groups lose legal standing to challenge destruction.
- It sidelines communities by weakening opportunities for consultation and objections, effectively silencing those most directly affected.
- It undermines the credibility of the EPBC Act itself, eroding public trust and weakening Australia's international environmental obligations.

Addressing the Risks

Rather than weakening the EPBC Act, reforms must:

- Strengthen independent oversight, require cumulative impact analysis, and enforce environmental bonds to ensure rehabilitation.
- Prohibit land status changes that facilitate industrialisation of natural areas. If renewable energy projects are to proceed, they must be sited in genuinely degraded or previously industrialised landscapes.
- Maintain project-by-project scrutiny through full environmental impact assessments considering unique species interactions and long-term consequences.
- Protect community rights by maintaining consultation and appeal processes.

Conclusion

By proposing to water down Australia's flagship environmental law for the benefit of one sector, the Commission is not only failing its environmental mandate but also colliding with **constitutional limits, administrative law principles, and international obligations**. Such reforms would almost certainly invite constitutional challenge and judicial intervention. This is unprecedented, and it must be resisted to preserve the integrity of national environmental governance.

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2. Legal Barriers to the Proposed Amendments

While the interim report frames its recommendations as a rational economic transition, the proposals encounter fundamental legal obstacles that make their implementation untenable. Any attempt to dismantle or weaken the Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act) in the manner suggested would collide with Australia's constitutional structure, administrative law principles, and binding international obligations.

2.1 Constitutional Foundations and International Obligations

The EPBC Act is anchored in the Commonwealth's **external affairs power (s 51(xxix) Constitution)**, which permits legislation to implement international treaties. It gives effect to obligations under:

- *Convention on Biological Diversity (1993)*
- *World Heritage Convention (1972)*
- *Ramsar Convention on Wetlands (1971)*
- *Convention on the Conservation of Migratory Species (Bonn Convention, 1979)*

In *Commonwealth v Tasmania* (1983) 158 CLR 1 (**Tasmanian Dam Case**), the High Court upheld federal powers to protect World Heritage areas, even against state opposition. This established that treaty obligations empower, not restrict, Commonwealth law.

Exempting renewable energy projects from federal environmental scrutiny would likely place Australia in breach of its treaties, rendering such amendments constitutionally vulnerable.

2. 2 Judicial Review and Procedural Fairness

The proposals to fast-track approvals, reduce cumulative assessments, and limit community standing clash with entrenched principles of administrative law.

- In *Plaintiff S157/2002 v Commonwealth* (2003) 211 CLR 476, the High Court confirmed that **s 75(v) Constitution** guarantees judicial review of Commonwealth decision-makers.
- In *Kirk v Industrial Court of NSW* (2010) 239 CLR 531, the Court held that state Parliaments also cannot remove judicial review of jurisdictional errors.

Any legislative attempt to oust review rights or silence community objections to renewable projects would be invalid.

2.3 Property Rights and Just Terms Compensation

Reclassifying farmland, remnant native forest, or Indigenous land as "industrial energy precincts" risks breaching **s 51(xxxi) Constitution**, which requires that acquisitions of property occur only on "just terms."

In *Wurridjal v Commonwealth* (2009) 237 CLR 309, the Court confirmed that even regulatory schemes may amount to property acquisition requiring compensation.

Landholders and traditional owners could successfully challenge reclassification without compensation as unconstitutional.

2.4 Inconsistency with State Environmental Laws

If federal amendments delegate approval powers to states while exempting renewable projects from national scrutiny, **s 109 Constitution** will be triggered. Under this provision, Commonwealth law prevails over inconsistent state law.

This creates legal uncertainty, as stricter state protections could be overridden, undermining cooperative federalism and exposing the reforms to constitutional challenge.

2.5 Breach of International Treaty Commitments

Weakening the EPBC Act jeopardises Australia's compliance with international agreements:

- **Ramsar Convention** – industrialisation of wetlands would breach conservation commitments.
- **World Heritage Convention** – construction that damages listed areas would violate obligations.
- **Convention on Biological Diversity** – removal of threatened species protections would undermine implementation.

The *Tasmanian Dam Case* established that Commonwealth law must give real and practical effect to treaty obligations. Failure to do so risks international censure, trade repercussions, and disputes under treaties where environmental standards are binding.

2.6 Arbitrary Delegation of Power

The proposed "strategic approvals" for Renewable Energy Zones, where projects gain near-automatic consent, risk unlawful delegation of legislative power.

In *Victorian Stevedoring & General Contracting Co Pty Ltd v Dignan* (1931) 46 CLR 73, the High Court held that Parliament may delegate administrative functions, but not abdicate its legislative responsibility.

Granting blanket exemptions to an entire industry may amount to an abdication, making such provisions invalid.

Conclusion: Why These Amendments Cannot Stand

The Commission's proposed dismantling of the EPBC Act is not only environmentally reckless but also legally fraught. The reforms collide with:

- **Constitutional treaty powers** (*Tasmanian Dam Case*).
- **Entrenched judicial review rights** (*Plaintiff S157*; *Kirk*).
- **Just terms property protections** (*Wurridjal*).
- **Federal–state balance** under s 109 Constitution.
- **Australia's binding treaty obligations**.

On every front—constitutional, administrative, and international—the reforms would invite High Court challenge and almost certainly fail.

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3. Critical Issues

The Commission's recommendations on subsidies, safeguard thresholds, environmental approvals, market incentives, and carbon valuation each present profound risks. These are not only flawed in policy and ecological terms, but in several cases also raise serious legal vulnerabilities that undermine their enforceability.

3.1 Subsidy Phase-Out by 2030

The proposal to remove all clean energy subsidies and incentives by 2030 fails to acknowledge the fragility of the transition. Many renewable projects, particularly in regional and remote areas, rely heavily on transitional subsidies to remain viable. Without this support, energy affordability and supply security will suffer.

Evidence: Analysis of regional energy deployment shows that projects cancelled in the absence of bridging supports have resulted in localised energy insecurity and cost spikes (IEA, 2023). Comparative international studies, such as the EU Just Transition Mechanism, demonstrate that subsidies phased out too early lead to inequitable burdens for vulnerable communities (European Commission, 2021).

Recommendation: Extend transitional subsidies or targeted grants until at least 2035, tapering according to deployment milestones rather than arbitrary deadlines.

Premature withdrawal of subsidies without a rational evidentiary basis could also be vulnerable to judicial review as an **irrational exercise of power** inconsistent with administrative law standards of reasonableness.

3.2 Safeguard Mechanism Threshold Reduction

Reducing the threshold to 25,000 tCO_2 would capture many mid-tier regional businesses and SMEs without delivering proportionate climate benefits. This risks shifting resources away from emissions reduction investment toward compliance paperwork.

Evidence: Studies of Australian agriculture and mid-tier manufacturing show that compliance costs disproportionately harm smaller operators while achieving minimal emissions reductions (Commonwealth of Australia, 2022). Similar findings have been observed in Canadian SMEs, where regulatory overreach hindered competitiveness without substantial climate outcomes (NRTEE, 2020).

Recommendation: Introduce a tiered safeguard system, with scalable compliance obligations. Exempt or provide opt-in mechanisms for SMEs where mitigation potential is limited.

Imposing disproportionate compliance burdens on SMEs, without clear proportional benefit, risks breaching administrative law principles of **proportionality and fairness**, leaving such measures open to challenge.

3.3 Fast-Tracking Environmental Approvals under EPBC Act Reform

The recommendation to fast-track approvals under the guise of "streamlining" risks catastrophic ecological consequences. Recent history demonstrates that rushed approvals for large-scale wind and solar farms have resulted in significant habitat destruction, wildlife fatalities, and irreversible landscape changes.

Evidence: Peer-reviewed studies show cumulative impacts of industrial renewables include habitat fragmentation (Lindenmayer & Taylor, 2020), bird and bat mortality (Thaxter et al., 2017), soil degradation (Feng et al., 2021), water contamination (Guelfo et al., 2024), and marine ecosystem disruption from offshore projects (Gill et al., 2020). Fast-tracked approvals will magnify these harms.

Recommendation: Establish independent oversight panels for any fast-tracked project, require enforceable environmental bonds, and mandate rigorous cumulative impact assessments.

Beyond ecological harm, such streamlining also collides with established legal safeguards. Attempts to exclude federal assessment, remove cumulative analysis, or restrict community standing would likely breach Australia's constitutional obligations and invite immediate High Court challenge and constitutional invalidity.

3.4 Market-Based Incentives after 2030

Shifting entirely to market mechanisms risks creating uneven deployment. Market forces alone will not guarantee investment in emerging technologies or underserved regions, nor will they ensure equitable outcomes for communities most affected by industrialisation.

Evidence: Historical reliance on pure market incentives in the energy sector has repeatedly led to under-investment in transmission infrastructure and regional access (Helm, 2017). Without targeted intervention, regions dependent on agriculture or tourism are left disadvantaged.

Recommendation: Retain hybrid policy models—market frameworks supplemented by targeted government support for early-stage technologies, grid interconnections, and regional deployment.

A reliance on pure market mechanisms, absent targeted safeguards, also risks contravening Australia's **treaty-based obligations** under the Convention on Biological Diversity and the World Heritage Convention. If government policy fails to ensure that biodiversity protection and sustainable development are meaningfully integrated into energy deployment, it exposes the Commonwealth to domestic legal challenge and to international censure for breach of treaty commitments.

3.5 Reliance on National Carbon Values (TCCVs)

The report's heavy reliance on theoretical time-consistent carbon values (TCCVs) introduces speculative assumptions that risk misdirecting billions of dollars in investment. Carbon value modelling is inherently uncertain and vulnerable to global volatility.

Evidence: Independent carbon pricing analyses from the EU Emissions Trading System and California cap-and-trade market demonstrate volatility that undermines reliability (Newell et al., 2021). Misaligned modelling assumptions have historically distorted energy investment patterns.

Endorsing carbon values that exclude cradle-to-grave emissions — from resource extraction and transport through to decommissioning and waste — risks judicial review for **failure to**

consider relevant matters under administrative law. Restricting analysis to operational emissions alone also exposes Australia to claims of **non-compliance with international treaty obligations**, including the Convention on Biological Diversity and the Paris Agreement, both of which require integration of full lifecycle impacts. Such omissions are not only misleading, but legally indefensible.

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4. Policy Alternatives

The Productivity Commission's interim report does not adequately consider the financial destabilisation and false carbon accounting practices driving economic and environmental harm. Before setting out alternatives, this section highlights the real-world impacts of rising energy costs and flawed accounting on businesses, communities, and national resilience.

4.1 Rising Energy Costs and Business Closures

Energy prices have risen significantly in Australia, with businesses in manufacturing, agriculture, and services reporting closures or reductions in operations due to unaffordable power bills. This financial destabilisation undermines the core promise of productivity and growth, directly contradicting claims of cheaper energy.

Evidence: Reports from Australian industry groups highlight energy costs as a key driver of business closures. Survey data confirms that energy insecurity has become a primary concern for regional employers and exporters.

Recommendation: The Productivity Commission must recognise energy affordability as central to productivity. Policies should prioritise stabilising energy costs for businesses and households through genuine efficiency measures and realistic carbon accounting.

Failure to account for affordability in regulatory design also risks being challenged as **irrational or disproportionate regulation**, which under administrative law principles may render such policies open to judicial review."

4.2 False Carbon Accounting and Lifecycle Emissions

The reliance on false carbon accounting methods, which exclude full lifecycle emissions of industrial wind, solar, and battery projects, erodes public trust. These accounting methods dismiss decommissioning costs, embedded emissions from mining and transport, and pollution from PFAS, plastics, and blade shedding. As a result, the claim of "cleaner energy" becomes hollow, creating a distorted policy foundation that burdens communities rather than benefiting them.

Evidence: Peer-reviewed studies reveal lifecycle emissions of renewable projects often rival or exceed fossil fuel equivalents when mining, transport, land clearing, and disposal are included (Guelfo et al., 2024; Hepburn et al., 2022).

Recommendation: All carbon accounting must include lifecycle analysis from extraction to decommissioning, ensuring transparency and preventing misleading claims of cheap, clean energy.

1. Extend subsidy phase-out to 2035–2037, tied to verifiable deployment milestones.
2. Tiered safeguard mechanism protecting SMEs while capturing major emitters.
3. Two-track EPBC approvals: fast-tracked only if strict ecological compliance and environmental bonds are met.
4. Hybrid incentive model balancing market efficiency with targeted public investment.
5. Independent carbon valuation audits to validate TCCVs and ensure credible policy foundations.

Continuing to rely on misleading accounting methodologies may expose the Commonwealth to **misrepresentation challenges** under administrative law and even **international treaty disputes**, as lifecycle emissions accounting is an implied requirement of Australia's obligations under the Convention on Biological Diversity.

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5. Broader Concerns: Misinformation, Misrepresentation, and Misuse of Narrative

The interim report risks misleading both policymakers and the Australian public by deliberately shaping the narrative of the net zero transition in ways that obscure ecological harm and economic cost. The Commission's framing of industrial-scale renewables as "cheaper" and "cleaner" energy is not grounded in verifiable facts but in selective modelling and speculative assumptions. This amounts to a distortion of the truth that undermines democratic accountability.

The Productivity Commission has sought expanded powers to fast-track approvals and override independent oversight, yet its justification rests on a narrative that excludes lifecycle emissions, conceals ecological damage, and downplays economic dislocation. In effect, Australians are being sold a version of "net zero" and "carbon neutral" energy that does not exist in reality.

5.1 Misrepresentation of Net Zero and Carbon Neutral Claims

By ignoring cradle-to-grave emissions, toxic waste impacts, and habitat destruction, the report misrepresents industrial renewables as "carbon neutral." This is not a matter of semantics — it is a misrepresentation of material facts to the public and to Parliament. Such conduct risks breaching:

- **Administrative law principles of reasonableness and rationality**, where policy must be based on relevant and accurate considerations (*Minister for Immigration and Citizenship v Li* (2013) 249 CLR 332).
- **The duty to consider relevant matters**, which the High Court has confirmed as essential for lawful decision-making (*Minister for Aboriginal Affairs v Peko-Wallsend Ltd* (1986) 162 CLR 24).
- **Consumer protection standards**, as misleading or deceptive conduct in representations to the public is prohibited under s 18 of the *Australian Consumer Law*

(Competition and Consumer Act 2010 (Cth)). While the Commission is a statutory body, public representations that are materially false invite scrutiny and potential legal challenge.

- **International treaty obligations**, including the *Paris Agreement* (2016) and the *Convention on Biological Diversity* (1993), which require national reporting on emissions and biodiversity to be accurate, transparent, and complete.

5.2 Legal Risks of Narrative Manipulation

The deliberate downplaying of ecological damage and overstatement of carbon benefits exposes the government to legal challenge on multiple fronts:

- **Judicial review**: If decisions are made on the basis of misleading or incomplete data, they may be invalid for "failure to consider relevant matters" (*Peko-Wallsend*).
- **Unreasonableness**: Reliance on speculative assumptions without robust evidence may constitute legal unreasonableness, rendering decisions invalid (*Li*).
- **Misleading conduct**: Representations to the public that industrial renewables are inherently "clean" or "carbon neutral" would, if made in trade or commerce, breach s 18 of the *Australian Consumer Law*. The principle of honesty in representations applies equally to public bodies.
- **Parliamentary accountability**: Misrepresenting the true environmental and economic costs of renewables risks breaching the duty of candour owed to Parliament, as recognised in *Egan v Willis* (1998) 195 CLR 424.
- **International liability**: False reporting on emissions reductions and biodiversity impacts may be challenged in international fora, damaging Australia's trade, reputation, and compliance record under the *Paris Agreement* and the *Convention on Biological Diversity*.

5.3 Truth, Transparency, and Public Trust

Ultimately, the Commission's approach undermines public trust by treating Australians as passive recipients of a carefully managed narrative rather than participants in an honest national conversation. This is not simply a policy failure — it is a governance failure. Productivity cannot be built on misinformation, nor can legitimacy be claimed by silencing communities and concealing costs.

Unless transparency is restored and misleading claims abandoned, the Commission risks not only eroding democratic accountability but also exposing the government to legal sanction for misrepresentation, breach of statutory duties, and international treaty violations.

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6. International Legal Precedent and Global Climate Trends

Australia's refusal to diversify its energy mix and confront the realities of lifecycle emissions places it starkly out of step with international developments in climate governance and legal accountability. Courts and tribunals worldwide have already confirmed that governments cannot misrepresent carbon neutrality, delay action, or disregard ecological impacts without breaching legal duties.

6.1 Landmark Cases and Human Rights Obligations

In *Urgenda Foundation v State of the Netherlands* (2019), the Dutch Supreme Court held that the government had violated citizens' human rights by failing to reduce emissions sufficiently to meet its obligations under the Paris Agreement. Similarly, in *Verein KlimaSeniorinnen Schweiz v Switzerland* (2024), the European Court of Human Rights found that Switzerland's inadequate climate action breached Articles 6 and 8 of the European Convention on Human Rights, recognising the right to effective protection against climate harms.

Most recently, the International Court of Justice issued an Advisory Opinion on the *Climate Change Obligations of States* (2025), confirming that states have a duty under international law to pursue climate action with "highest ambition" and that failure to act may constitute an internationally wrongful act.

6.2 Corporate Accountability and Tort Liability

International precedent has also established that corporations cannot escape accountability. In *Milieudefensie v Royal Dutch Shell plc* (2021), the District Court of The Hague ordered Shell to reduce its global CO_2 emissions by 45% by 2030, holding that corporations owe duties under human rights and environmental law. Likewise, in *Saúl Luciano Lliuya v RWE AG* (2025), the Higher Regional Court of Hamm (Germany) confirmed that major emitters can be held proportionally liable in tort for climate damages, a decision of global significance for corporate accountability.

6.3 National Constitutional and Judicial Enforcement

Other jurisdictions have taken constitutional approaches. In *Neubauer et al v Germany* (2021), the Federal Constitutional Court ruled that inadequate climate policies violated the fundamental rights of future generations, requiring stricter emissions cuts. This precedent affirms that climate inaction is not merely a policy shortfall but a constitutional breach.

6.4 Australia's Isolation in the Western Context

Australia is now one of the few advanced economies that:

- Refuses to lift its ban on nuclear energy, despite widespread international adoption in France, the US, UK, Canada, South Korea, and China as a core low-carbon baseload.
- Clings to rigid net zero targets while international peers such as Germany, the UK, and the US are recalibrating their approaches to balance energy security, biodiversity, and economic stability.
- Ignores lifecycle emissions in its accounting, even though international jurisprudence (*Urgenda*, *KlimaSeniorinnen*, *Neubauer*) makes it clear that omissions of this nature amount to breaches of human rights and treaty obligations.

Implication for Australia: These international precedents establish that governments and corporations can be — and increasingly are — held legally accountable for misrepresenting climate outcomes, failing to act in line with treaty obligations, and disregarding human rights. By pursuing a pathway of selective accounting and renewables-only policy, Australia risks becoming an international outlier, vulnerable to litigation, diplomatic sanction, and reputational damage.

7. Conclusion, Accountability and Legacy

Australia's transition to net zero must be productive, but it must also be responsible. Productivity is not achieved if natural capital is eroded, communities are destabilised, and biodiversity is sacrificed for the false promise of "cheap and clean" energy. The Productivity Commission cannot claim credibility while it downplays ecological harm, disregards full carbon accounting, and proposes reforms that collide with constitutional and international law.

Accountability is at the heart of this issue. The Commission and the Government will be judged not only on the policies they advance today, but on the legacy they leave for future generations. If Australia pursues a reckless pathway, dismantling environmental safeguards, silencing communities, and misrepresenting the true costs of industrial renewables the legacy will be one of ecological collapse, fractured communities, and legal battles that discredit national governance.

The Commission must therefore recognise that this is more than a technical inquiry. It is a test of honesty, of constitutional integrity, and of Australia's willingness to safeguard its future. Productivity cannot be built on misinformation and illegality. History will remember whether this moment was one of leadership and truth, or of obfuscation and failure.

We call on the Productivity Commission to abandon proposals that weaken the EPBC Act, misrepresent carbon neutrality, and erode community rights — and to instead adopt a framework that is transparent, evidence-based, and lawful. Anything less risks leaving behind a legacy of betrayal and irreversible harm.

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