

DEPARTMENT OF THE PRIME MINISTER AND CABINET

PM&C
Secretary
Mr Chisholm
Ms Dolman
Mr Reid
Ms McGregor
Mr Strapp
s 22(1)(a)(ii)
Mr Trease
Mr Martin
Mr Belgrave
Mr Lange
Mr Hupalo
Ms Collingburn
Mr Martin

To: Assistant Minister to the Prime Minister (for signature by 7 October 2022 to enable introduction in the 2022 Spring sittings)

cc: Cabinet Secretary

AMENDMENTS TO THE ENVIRONMENT PROTECTION (SEA DUMPING) ACT 1981 – REQUEST FOR POLICY APPROVAL

Recommendations - that you:

1. Agree, on behalf of the Hon Anthony Albanese MP, Prime Minister, to the request from the Hon Tanya Plibersek MP, Minister for the Environment and Water (the Minister), to amend the *Environment Protection (Sea Dumping) Act 1981* to implement amendments to the London Protocol made in 2009 and 2013.

Agreed / Not Agreed

2. Sign the letter at Attachment A advising the Minister of your decisions.

Signed / Not Signed

s 22(1)(a)(ii)

PATRICK GORMAN

Date: 28/09/2022

Comments:

Key Points:

1. On 14 September 2022, the Hon Tanya Plibersek MP, Minister for the Environment and Water (the Minister), wrote to the Prime Minister (Attachment B) seeking policy approval to amend the *Environment Protection (Sea Dumping) Act 1981* (Sea Dumping Act) to implement amendments to the 1996 Protocol to the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter* (London Protocol) adopted in 2009 and 2013.
 - a. Australia is a Contracting Party to the London Protocol. The Sea Dumping Act implements Australia's international obligations under the London Protocol by regulating the loading, dumping and incineration of waste and other matters at sea.
 - b. The Bill to introduce amendments to the Sea Dumping Act has category A status for the 2022 Spring sittings and is expected to be introduced in the week commencing 7 November 2022.
2. The amendments to the Sea Dumping Act will implement Australia's international obligations under the London Protocol by enabling:

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- a. permits for the export of carbon dioxide between Australia and other parties to the London Protocol, for storage in the sub-seabed (i.e. to enable a regulatory regime for carbon capture and storage across jurisdictions)
 - b. permits for placing wastes or other matters into Australian waters, or into any waters by Australian vessels, for scientific research, and
 - c. additional minor amendments to implement and enforce the new permits and modernise drafting of the Sea Dumping Act.
3. We recommend you agree the Minister's requests to amend the legislation, noting:
 - a. the proposed amendments are consistent with Government policy (which supports an enabling regulatory environment for carbon capture and storage) and involve implementing obligations agreed in 2009 and 2013, s 47C [REDACTED]
 - b. on 10 February 2020 the Joint Standing Committee on Treaties considered the London Protocol amendments, found these to be a minor treaty action, and agreed binding treaty action may be taken (i.e. proceeding with domestic legislative amendments and to ratify the amendments to the London Protocol), and
 - c. the Department of Climate Change, Energy, the Environment and Water has advised the Hon Chris Bowen MP, Minister for Climate Change and Energy, is supportive and intends to write to the Minister to ask that she prioritises implementing the London Protocol amendments to support emissions reduction.
4. Further steps are required to ratify the London Protocol amendments, neither of which have entered into force. For example, Australia must lodge an instrument of ratification with the International Maritime Organisation. The Minister will progress this work.

Sensitivities:

1. The Government has received consistent outreach to ratify the London Protocol amendments due to Australia's significant sequestration potential. s 33(a)(iii) [REDACTED]
2. s 47C [REDACTED]
3. There is a risk that some members of the public react negatively to this legislation, due to concerns with carbon capture and storage. The Department of the Prime Minister and Cabinet considers this can be managed with messaging that this legislation is to enable a framework to allow for proper regulation of such activities and that carbon capture and storage can contribute to emissions reduction.

Resources: Nil.

Consultation: Cab Div, International Div, Legal Policy and Legislation, DCCEEW

s 22(1)(a)(ii)

A/g Assistant Secretary

Environment, Resources and Agriculture Branch

23 September 2022

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

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ATTACHMENTS

ATTACHMENT A DRAFT RESPONSE

ATTACHMENT B INCOMING CORRESPONDENCE

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THE HON PATRICK GORMAN MP
ASSISTANT MINISTER TO THE PRIME MINISTER

Reference: MC22-067731

The Hon Tanya Plibersek MP
Minister for the Environment and Water
Parliament House
CANBERRA ACT 2600

Dear Minister

Tanya

Thank you for your letter dated 14 September 2022 to the Prime Minister, the Hon Anthony Albanese MP, seeking policy approval to amend the *Environment Protection (Sea Dumping) Act 1981* (Sea Dumping Act) in line with amendments to the 1996 Protocol to the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972* (London Protocol) in 2009 and 2013. The Prime Minister has asked me to reply on his behalf.

I agree to the proposals set out in your letter and attachment.

I have copied this letter to Senator the Hon Penny Wong, Minister for Foreign Affairs; the Hon Chris Bowen MP, Minister for Climate Change and Energy; the Hon Madeleine King, Minister for Resources and the Minister for Northern Australia and the Hon Ed Husic MP, Minister for Industry and Science.

Yours sincerely

s 22(1)(a)(ii)

PATRICK GORMAN

28/09 / 2022

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THE HON TANYA PLIBERSEK MP
MINISTER FOR THE ENVIRONMENT AND WATER

MS22-900151

The Hon Anthony Albanese MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I write to seek your policy approval to amend the *Environment Protection (Sea Dumping) Act 1981* (Sea Dumping Act) to implement amendments made to the 1996 Protocol to the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter 1972* (London Protocol) in 2009 and 2013.

The Sea Dumping Act implements Australia's international obligations under the London Protocol by regulating the loading, dumping and incineration of waste and other matter at sea, and the placement of artificial reefs within Australian waters. It seeks to protect Australian waters and the marine environment by minimising potentially harmful environmental impacts related to these activities.

The 2009 amendment to the London Protocol enables the export of carbon dioxide (CO₂) streams from a Contracting Party to the London Protocol to another country for the purpose of sequestration in sub-seabed geological formations. CO₂ sequestration in a country's own sub-seabed was permitted under the London Protocol following an amendment to Annex 1 of the London Protocol in 2006. The 2009 amendment supports countries without storage capacity to reduce their atmospheric emissions by allowing them to export CO₂ to countries with available sub-seabed geological storage formations.

In 2019, Contracting Parties adopted a provisional application resolution, which enables the export of CO₂ streams for sub-seabed sequestration per the 2009 amendment, without its formal entry-into-force. Therefore, once the Sea Dumping Act is amended to include this provision, Australia will deposit a declaration of provision application to the International Maritime Organisation as part of the ratification process. This will allow Australia to meet climate change objectives and commitments well before the 2009 amendment comes into force at an international level

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The 2013 amendment to the London Protocol allows for the placement of wastes or other matter for a marine geoengineering activity for scientific research. This tests the effectiveness of different activities at reducing atmospheric CO₂ and enables us to better understand the associated risks. This amendment also provides for consideration of other marine geoengineering activities in future to facilitate regulation of other potentially harmful activities. There is no provisional application mechanism for the 2013 amendment. These measures would, therefore, commence upon the international entry-into-force date – as per usual practice.

Both amendments align with Australia's international obligations and commitment to reduce emissions by 43 per cent by 2030 and to be a credible international actor when it comes to the environment. Australia will update the Meeting of Contracting Parties to the London Protocol from 3-7 October 2022 on progress with ratification.

The proposed amendments to the Sea Dumping Act would implement Australia's international obligations by:

- allowing a permit to be granted for the export of CO₂ streams from CO₂ capture processes for sequestration into a sub-seabed geological formations in accordance with the 2009 amendment to the London Protocol.
- allowing a permit to be granted for the placement of wastes or other matter, for a marine geoengineering activity for scientific research in accordance with the 2013 amendment to the London Protocol.
- making minor consequential amendments to enable effective implementation and enforcement of the two new types of permits.
- making minor technical amendments to clarify existing provisions of the Sea Dumping Act and adopt modern drafting practices.

Further detail on the proposed amendments to the Sea Dumping Act is outlined in Attachment A.

I seek your agreement to implement these amendments to the London Protocol by amending the Sea Dumping Act, which would in turn assist with progressing Australia's ratification of the London Protocol amendments.

s 47C

The Department of Climate Change, Energy, the Environment and Water is consulting with the Office of International Law, the Australian Government Solicitor, the Office of Parliamentary Counsel, the Department of Foreign Affairs and Trade, and the Department of the Prime Minister and Cabinet throughout the ratification process and on the proposed legislative amendments.

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There are no financial impacts from the proposed amendments to the Sea Dumping Act. The Office of Best Practice Regulation has also been consulted on the proposed amendments and has advised a regulation impact statement is not required (OBPR ID: 25541 and 25542).

I propose to introduce a Bill to amend the Sea Dumping Act during the 2022 Spring Parliamentary sittings. The contact officer in the Department is s 22(1)(a)(ii) - Director, Sea Dumping Section, on s 22(1)(a)(ii) or s 22(1)(a)(ii) @protected.environment.gov.au.

Thank you for your consideration of this request.

Yours sincerely

s 22(1)(a)(ii)

TANYA PLIBERSEK

14.9.22

Enc Attachment - Details of the proposed amendments to the Sea Dumping Act

cc. Senator the Hon Penny Wong
Minister for Foreign Affairs

The Hon Chris Bowen
Minister for Climate Change and Energy

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ATTACHMENT A**Details of the proposed amendments to the *Environment Protection (Sea Dumping) Act 1981***

1. New permits to allow for the export carbon dioxide (CO₂) streams from CO₂ capture processes for sequestration into a sub-seabed geological formation: It is proposed that a new category of permit be created to allow for the export of controlled material from Australia to another country. The Minister would only be able to grant the export permit if the Minister is satisfied of the criteria set out in proposed subsection 19(7B). The criteria ensures that the relevant controlled material must be CO₂ streams from CO₂ capture processes for sequestration into a sub-seabed, and that the requirements for export reflect those outlined in the London Protocol. These requirements are intended to ensure that the export may only be allowed with the agreement of the country into which the CO₂ streams are proposed to be exported, and after undertaking a rigorous assessment process considering the environmental impact of the export and subsequent sequestration of the CO₂ streams.

2. New fault-based offence for export of CO₂ streams without a permit: It is proposed that the existing prohibition on the export of controlled material from Australia to another country for the purpose of dumping or incineration at sea (section 10D) be amended. The amendment would specify that if the relevant controlled material is CO₂ streams from CO₂ capture processes for sequestration into a sub-seabed geological formation, any export of that material not in accordance with a permit would be an offence. In other circumstances, the existing prohibition would continue to apply.

3. New exception to the fault-based offence for loading of carbon dioxide streams for export: It is proposed that a new exception to the offence provision at existing section 10C, that prohibits the loading of controlled material on a vessel, aircraft or platform in Australia or Australian waters, or on any Australian vessel or Australian aircraft, unless it is in accordance with a permit. The new exception would ensure that no offence is committed if the controlled material is CO₂ streams from CO₂ capture processes for sequestration into a sub-seabed geological formation; the loading is for the purpose of export from Australia; and that there is a permit in force for that export. This would ensure that a person who was granted an export permit would not be committing an offence when loading the relevant controlled material for export, and that exporters would not be required to apply for a separate loading permit if there was already an applicable export permit in force at the time of loading.

4. New permits to allow for the placement of wastes or other matter into the sea for marine geoengineering activities: It is proposed that a new category of permit be created to allow for the placement of wastes or other matter into Australian waters, or into any part of the sea from any Australian vessel or Australian aircraft, for a marine geoengineering activity. The Minister would only be able to grant the placement permit if the Minister is satisfied of the criteria set out in proposed subsection 19(7C). The criteria ensures that the relevant placement must be for legitimate scientific research, and in accordance with the requirements set out in the London Protocol. These requirements are intended to ensure that the placement may only be allowed after undertaking a rigorous assessment process

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considering the environmental impact of the marine geoengineering activities, and that potential pollution of the marine environment is prevented or reduced to a minimum.

It is also proposed that existing provisions, which allow the Minister to require an applicant or permit holder:

- to enter into an agreement with the Commonwealth concerning specified research, analysis or monitoring to determine the effect of the proposed activity covered by the application or permit (as the case may be); and
 - to undertake such research, analysis or monitoring at the person's own expense;
- be extended to applications or permits for the placement of wastes or other matter for marine geoengineering.

5. New fault-based offences for activities relating to placement of wastes or other matter for marine geoengineering: It is proposed that new offences be added to prohibit the following:

- placement of wastes or other matter into the sea for marine geoengineering activities not in accordance with a permit;
- loading of wastes or other matter for the purpose of placement of wastes or other matter into the sea for marine geoengineering activities, unless there is a permit granted under the Act allowing the placement; and
- export of wastes or other matter for purpose of placement of wastes or other matter into the sea for marine geoengineering activities, unless there is a permit granted under the Act allowing the placement.

These new prohibitions would ensure that the environmental risks associated with the placement of waste or other matter for marine geoengineering activities will be appropriately managed, consistent with Australia's international obligations. There would be penalties for contravention of these prohibitions, with aggravated penalties where the relevant material is seriously harmful material (as defined in existing subsection 4(1)).

It is also proposed to amend existing section 10F, which provides that if an offence is committed against specified sections of the Act, then each responsible person in relation to the offending craft or offending material may also be liable for an offence in certain circumstances. The new offences for activities in relation to placement of wastes or other matter for marine geoengineering would be specified for the purposes of section 10F. Consequential amendments to the definitions of *offending craft* and *offending material* will also be made. These amendments would also be consistent with the existing drafting and operation of the Act.

6. Exceptions to the new fault-based offences for activities relating to placement of wastes or other matter for marine geoengineering: It is proposed that exceptions to the new offences for activities relating to placement of wastes or other matter for marine geoengineering would be available in the following circumstances:

- placement of wastes or other matter into non-Australian waters for a marine geoengineering activity if the placement is allowed by a permit granted in accordance with the London Protocol by another country;

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- loading for the placement of wastes or other matter into non-Australian waters for a marine geoengineering activity if the subsequent placement is allowed by a permit granted in accordance with the London Protocol by another country;
- export of wastes or other matter for the placement into non-Australian waters for a marine geoengineering activity if the subsequent placement is allowed by a permit granted in accordance with the London Protocol by another country.

These exceptions are practical and ensure for the proper operation of the London Protocol without placing undue burden on persons who have already received permits in accordance with the Protocol. Any placement activities in Australian waters would still require a permit under the Act.

7. Extend existing provisions on restoration of the environment: It is proposed that existing provisions relating to the restoration of the environment and liability for expenses incurred by the Commonwealth, be extended to the placement of wastes or other matter into Australian waters for a marine geoengineering activity. This would ensure that the Minister may cause to be taken steps considered proper to repair or remedy any conditions, or to mitigate any damage, arising from the placement of wastes or other matter into Australian waters for a marine geoengineering activity. Where a person has been convicted of an offence and the Commonwealth has incurred expenses in taking restoration steps in relation to the conduct relating to the offence, that amount would be recoverable as a debt due to the Commonwealth by that person.

8. Apply existing compliance and enforcement powers to placement for marine geoengineering activities: It is proposed that existing compliance and enforcement powers be amended so that they may be used to ensure compliance in relation to placement of wastes and other matter into the sea for marine geoengineering activities. These powers would include:

- enabling inspectors to board any vessel, aircraft or platform to exercise their powers;
- enabling inspectors to apply for a warrant to enter premises to exercise their powers;
- allowing magistrates to grant an application for warrant;
- enabling inspectors to search for, inspect, take extract from and make copies of documents;
- enabling inspectors to inspect, and take samples of, any wastes or other matter;
- enabling inspectors to observe loading or placement activities; and
- enabling a court to grant an injunction to restrain a person from engaging in conduct that may constitute an offence against the Act.

These powers are not new. These proposed amendments would instead allow existing powers in the Act to be exercised in relation to the new provisions on placement of wastes and other matter into the sea for marine geoengineering activities. These amendments would also be consistent with the existing drafting and operation of the Act.

9. Clarify that new offences relating to marine geoengineering activities are indictable offences: It is proposed that existing subsection 37(1) be amended to add the new offence provisions relating to marine geoengineering activities. This would clarify that those new

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offences would be indictable offences. This would be consistent with the existing drafting and operation of the Act.

10. Insert Part and Division headings: It is proposed to insert several Part and Division heading throughout the Act. This would have the effect of dividing the Act into various Parts and Divisions, in accordance with modern drafting practices, and would assist readers with navigating the Act.

11. Clarify certain terms used and existing provisions: It is proposed to make minor amendments to clarify certain terms used in the Act, and some existing provisions. For example, it is proposed to clarify where the term 'permit' is to be used within its ordinary meaning, rather than the definition given by subsection 4(1).

MC24-086258

RESPONSE TO HOUSE INQUIRY INTO LONDON PROTOCOL AMENDMENTS

Assistant Minister to the Prime Minister, we recommend you:

1. Agree to approve the proposed Government response (Attachment B) to the House Standing Committee on Climate Change, Energy, Environment and Water Inquiry into the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol), on behalf of the Hon Anthony Albanese MP, Prime Minister, without reference to Cabinet, and agree to the response being tabled in the Parliament.

Agreed / Not Agreed

2. Sign the draft response (Attachment A) to the Hon Tanya Plibersek MP, Minister for the Environment and Water, informing her of your decision.

Signed / Not Signed

s 22(1)(a)(ii)

PATRICK GORMAN

Date:

Comments:**KEY POINTS**

s 47C

2. We recommend you approve the response, without reference to Cabinet, and agree that it be tabled in the Parliament, noting:
 - a. The response does not propose any policy changes, as the Government has already started the process of ratification via domestic legislation.
 - i. Ratification will allow Australia to establish regulatory frameworks and bilateral instruments for a new Transboundary Carbon Capture and Storage (CCS) program with regional partners to support decarbonisation.
 - b. Senator the Hon Penny Wong, Minister for Foreign Affairs, the Hon Chris Bowen MP, Minister for Climate Change and Energy, and the Hon Madeleine King MP, Minister for Resources, have approved the response.

SUPPLEMENTARY INFORMATION

1. On 30 November 2022, Minister Plibersek initiated the inquiry into and report on the 2009 and 2013 London Protocol amendments. The inquiry report was tabled on 13 June 2023.

2. The London Protocol protects the marine environment against pollution, including by prohibiting all dumping of waste and other matter into the ocean, except for permitted substances. Two separate amendments were agreed to by Contracting Parties to the London Protocol in 2009 and 2013, but they require ratification of two-thirds of Contracting Parties before they enter into force.
 - a. The 2009 amendment permits the export of carbon dioxide from a Contracting Party to another country for sub-seabed storage, as a climate mitigation measure.
 - i. In 2019, Contracting Parties agreed to a 'provisional application' to allow usage of this amendment before two-thirds ratification is reached, meaning that Australia could commence regulating transboundary movement of carbon dioxide once domestic ratification processes are finalised.
 - b. The 2013 amendment permits placement of matter into the sea for legitimate scientific research into marine geoengineering activities (such as ocean fertilisation) including for climate mitigation purposes.
3. The process of Australia ratifying the amendments has already been initiated.
 - a. The Environment Protection (Sea Dumping) Amendment (Using New Technologies to Fight Climate Change) Bill 2023, which amends the *Environment Protection (Sea Dumping) Act 1981* to implement the London Protocol amendments, passed the House of Representatives on 3 August 2023 and the Senate on 13 November 2023.
 - b. Two additional steps are required before the amendments are ratified by Australia: approval must be sought from the Federal Executive Council to ratify the amendments, and an instrument of ratification for each amendment must be deposited with the International Maritime Organisation.

Risks and Sensitivities

Australia has significant sequestration potential. s 33(a)(iii)

s 47B

Record Timeline

Date of Correspondence	Date Created	Date Delivered to MO	Signature Due Date
5/06/2024	06/06/2024	17/06/2024	

Consultation

International Division, Government Division

s 22(1)(a)(ii)

A/g Assistant Secretary

Environment, Resources and Agriculture Branch

17 June 2023

Policy Officer: s 22(1)(a)(ii)

Phone no: s 22(1)(a)(ii)

Circulation

PM&C Secretary; DS, Economy, Industry and Resilience Group, *N Williams*; DS, International and Security Group, *G Fletcher*; DS, Governance & Corporate, *L Elliston*; FAS, Industry, Infrastructure and Environment Division, *N Luchetti*; FAS, International Division, *C Chittick*; FAS, Government, *A Walter*; AS, Environment, Resources and Agriculture Branch, *M Strapp*; AS, Global Interests Branch, *D Titheridge*; AS, Parliamentary & Government Branch, *D Belgrove*, FAS Ministerial Support Division, *G Martin*.

AMO Chief of Staff; s 22(1)(a)(ii)

PMO Chief of Staff; s 22(1)(a)(ii)

ATTACHMENTS:

ATTACHMENT A DRAFT RESPONSE

ATTACHMENT B INCOMING CORRESPONDENCE AND PROPOSED GOVERNMENT RESPONSE



**ASSISTANT MINISTER TO THE PRIME MINISTER
ASSISTANT MINISTER FOR THE PUBLIC SERVICE
MEMBER FOR PERTH
The Hon Patrick Gorman MP**

Reference: MC24-086258

The Hon Tanya Plibersek MP
Minister for the Environment and Water
Parliament House
CANBERRA ACT 2600

Dear Minister

Thank you for your letter dated 5 June 2024 to the Hon Anthony Albanese MP, Prime Minister, regarding the Government's response to the 2023 inquiry by the House Standing Committee on Climate Change, Energy, Environment and Water into the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol). The Prime Minister has asked me to reply on his behalf.

s 47C

In line with established procedures, a copy of the response should be forwarded to the Chair of the Committee and arrangements be made for tabling as soon as possible.

I have copied this letter to Senator the Hon Penny Wong, Minister for Foreign Affairs, the Hon Chris Bowen MP, Minister for Climate Change and Energy, and the Hon Madeleine King MP, Minister for Resources.

Yours sincerely

s 22(1)(a)(ii)

PATRICK GORMAN

/ / 2024



THE HON TANYA PLIBERSEK MP
MINISTER FOR THE ENVIRONMENT AND WATER

MS24-000440

The Hon Anthony Albanese MP
Prime Minister
Parliament House
CANBERRA ACT 2600

Dear Prime Minister

I am writing to seek your approval of the enclosed Australian Government response to the House of Representatives Standing Committee on Climate Change, Energy, Environment and Water Inquiry into the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol).

The response addresses the recommendation in the Committee's report tabled on 13 June 2023. The Committee recommended the Australian Government ratify both amendments to the London Protocol.

The response has been prepared by the Department of Climate Change, Energy, the Environment and Water in consultation with the Department of Foreign Affairs and Trade, and the Department of Industry, Science and Resources. The Minister for Foreign Affairs, Senator the Hon Penny Wong, the Minister for Climate Change and Energy, the Hon Chris Bowen MP, and the Minister for Resources, the Hon Madeleine King MP, have approved the proposed response.

Subject to your agreement, arrangements will be made to table the response in Parliament at the earliest opportunity.

Thank you for your consideration.

Yours sincerely

s 22(1)(a)(ii)

Enc Australian Government response

5-6-24



Australian Government

Australian Government response to the
House Standing Committee on Climate Change, Energy,
Environment and Water report:

Inquiry into the 2009 and 2013 amendments to the 1996
Protocol to the Convention on the Prevention of Marine
Pollution by Dumping of Wastes and Other Matter, 1972
(London Protocol)

MARCH 2024

Introduction

On 23 January 2023, the House Standing Committee on Climate Change, Energy, Environment and Water began its inquiry into the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972 (London Protocol). The inquiry examined the context and impact of the 2009 and 2013 amendments to the London Protocol.

The evidence received by the Committee allowed it to consider the following issues:

- the environmental benefits and impacts of exporting and importing carbon dioxide (CO₂) streams for the purpose of sub-seabed sequestration
- the environmental benefits and impacts of marine geoengineering activity, such as ocean fertilisation, for scientific research
- the international market for carbon dioxide streams, and
- the interaction of the proposed amendments with greenhouse gas inventories and the regulatory and reporting systems.

The Committee tabled its final report 'Inquiry into the 2009 and 2013 amendments to the 1996 Protocol to the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Others Matter, 1972 (London Protocol)' on 13 June 2023.

The Australian Government welcomes the report and thanks the members of the Committee for their work in the course of the inquiry. These thanks also extend to the Secretariat of the Committee, and to those individuals and organisations who contributed their views through either attending the public hearings or via the 22 written submissions received by the Committee.

Response to recommendation made by the Committee

The Committee made one recommendation in its report.

Recommendation 1

The Committee recommends that the Australian Government ratify both the 2009 and the 2013 amendments to the London Protocol.

The Government **supports** this recommendation.

The Government introduced the Environment Protection (Sea Dumping) Amendment (Using New Technologies to Fight Climate Change) Bill 2023 to amend the *Environment Protection (Sea Dumping) Act 1981* (the Sea Dumping Act) and implement the amendments made to the London Protocol in 2009 and 2013. The Bill passed the House of Representatives on 3 August 2023 and the Senate on 13 November 2023.

The amended Sea Dumping Act establishes a regulatory system to manage risks from internationally emerging climate mitigation activities, including:

1. export of CO₂ streams for sequestration into sub-seabed geological formations (2009 amendment)
2. placement of wastes and other matter into the sea for the purpose of legitimate scientific research in marine geoengineering activities (2013 amendment).

Regulating these activities against a comprehensive and robust legal permitting framework, informed by reputable scientific advice and expertise, ensures minimal impact on the marine environment. It also provides legal certainty for businesses and organisations, while protecting the marine environment from the potential risks of these activities that would occur if they were not regulated.

While these amendments were agreed to by Contracting Parties to the London Protocol in 2009 and 2013, neither has entered into force. In 2019, the London Protocol agreed to a 'provisional application' to allow Contracting Parties to use the 2009 amendment before it enters into force. This will allow Australia to commence regulating the transboundary movement of CO₂ before two-thirds (36) of the 54 Contracting Parties have ratified (the trigger for international entry into force).

Now the Bill has passed, two additional steps are required to implement the 2009 and 2013 London Protocol amendments and complete ratification. The first is to seek approval from the Executive Council to ratify the amendments, and the second is to deposit an instrument of ratification for each amendment with the International Maritime Organization, along with a declaration of provisional application for the 2009 amendment, which will allow permits to be applied before the amendment comes into force.

Following ratification, Australia would establish regulatory permitting and approval processes under the Sea Dumping Act to allow CO₂ to be exported between countries. Any country that CO₂ is transported to for storage would need to have equivalent regulatory controls in place before a permit for export can be issued. This is a requirement under international law – governed by the London Protocol itself, to which Australia is a Contracting Party. A bilateral agreement between countries must be in place before any permit can be granted, to ensure the exporting and importing country meets the equivalent standards of the London Protocol.

The Government is committed to meeting Australia's international obligations, climate change objectives and protecting and preserving the marine environment. The amended Sea Dumping Act meets Australia's international obligations under the London Protocol and supports ratification of the 2009 and 2013 amendments. It also ensures the continued protection of the marine environment from potential environmental impacts through a robust and science-based regulatory framework.