



The Sustainable Engineering Society

...engineering in harmony with ecology

COMMUNITIES OF PRACTICE STATEMENT FROM SENG

THE ENVIRONMENTAL PROTECTION AND BIODIVERSITY ACT 1999 – UNDER THREAT (THE EPBC ACT)

The EPBC Act is the Australian Government's central piece of environmental legislation Ref (1). The Act was legislated by the Howard Government in 1999. It repealed 5 Acts including the Hawke Government legislation 1983 used to stop further Dam construction in Tasmania following a High Court ruling that the Commonwealth could act on matters of National Environmental significance. The Act provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. The EPBC Act affects any group, individual or company (called proponents) whose actions may have a significant impact on the 9 matters of national environmental significance:

- world heritage properties
- national heritage places
- wetlands of international importance (often called 'Ramsar' wetlands after the international treaty under which such wetlands are listed)
- nationally threatened species and ecological communities
- migratory species
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- nuclear actions (including uranium mining)
- A water resource, in relation to coal seam gas development and large coal mining development.

The water resource in was included in 2013 by Gillard Government with support of Greens and Independents. This is opposed by lobbyists and some states (2). The Coalition has said they will remove this (if elected).

SENG consider water resource to be an essential inclusion in the Act, as it is a critical national issue. The limitation of CSG and Coal mining should be removed, so that all major projects impacting water resources are covered. SENG propose Greenhouse Gas emissions and Forests/habitat should also be added to the matters of National environmental significance. This would ensure "best practice" on energy efficiency and GHG emissions and preservation of habitat is included in a project EIS. National cumulative effects can then be monitored instead of a project or state basis.

Ministerial responsibility:

The minister may accept or reject the proponents' application (usually an Environmental Impact Statement or EIS) by issuing an Environmental impact assessment (EIA) which may request further information, or approve with conditions. The latter is the most common outcome for major projects including LNG & coal terminals in GB Reef zone, NW shelf and Kimberly area, major coal and mining projects including Metals and Uranium. The Coalition (if elected) has stated they will amend the Act giving States power to approve their own EIS under the EPBC (7),(8). The Greens have a bill before the Senate to amend the Act to remove this exemption and insert a clause ensuring the Federal Minister remains responsible. (3)

Following meetings with states, BCA, and Environment groups Minister Mark Butler confirmed on 17 July federal ministerial responsibility for EPBC will be retained (if re-elected). (9)

SENG support Commonwealth Minister (and federal Parliament) responsibility and accountability for enforcement of the EPBC Act, including amendment to prevent any abrogation of responsibility to States.

Duplication of EIA proposals at State and Federal levels:

Duplication has been the lament of the States, the Business Council, the Minerals Council and the Aust Petroleum & exploration association, and the Australian Coal Association, Qld Resources Council (2) and many other lobbyists. The Government commissioned the Dr Alan Hawke to review the Act in 2009, and acted on the recommendations to avoid duplication by pursuing bilateral agreement standards with the States through the Council of Australian Governments, however this process stalled in Dec 2012. Dr. Hawke's recommendations to strengthen environmental protection and prioritise ecological sustainability were not adopted.

State environmental legislation generally covers air, water, pollution and license to operate, thus EIA/EIS submitted to a State does not cover all of the matters in the federal Act. States get most of the economic benefits (royalties, GST, employment, some regional infrastructure, etc.) of resources and projects and are aligned with resources and other developments. Some submissions from states (e.g. the QLD government submissions on the Alpha Coal project and the CSG developments) were initially rejected by the federal minister as incomplete and inadequate. The fiasco over rushed CSG approvals by Queensland commissioner general and manipulation of his EPA reports is well known. As noted above, the Coalition has said they will amend the EPBC to allow states to approve an EIA - That is Federal Minister and Government abrogate responsibility.

SENG Calls on the Government to pursue bilateral agreements with the states under the COAG process to avoid duplication and ensure rigorous standards in EIS are adhered to.

Strategic Assessments under EPBC:

Strategic assessments would define areas and developments where the EPBC Act would apply, and the requirements for EIA covering all developments and projects in the region. This would guide proponents, avoid duplicated EIA's and provide a cumulative assessment of Environmental Impacts across areas and projects. Assessments already underway include iron ore mining in Pilbara, LNG in Browse basin, Melbourne's urban growth boundaries and the Great Barrier Reef. This would avoid futile applications and spurious challenges such as overturning "wild Rivers" areas, Cattle and logging in National parks, commercial fishing in Marine parks etc. This is crucial to ensure sustainable developments and climate adaptation, allowing the Federal Government/ Minister to Act in the national interest on developments that may become inappropriate or unsustainable in some areas. The Coalition have not committed to continuing Strategic Assessments. SENG Supports the Government initiative to provide Strategic Assessments on a landscape/regional basis.

"Green tape" furphy (4):

The term was introduced by a Mining Company executive at the 2006 the Diggers and Dealers conference in Kalgoorlie and has been taken up by Business Council, the Minerals Council, Aust Petroleum & exploration Association, Australian Coal Association, Queensland Resource Association, big miners, lobbyists, some states and the coalition. There has not been a strong case or evidence presented by any of these organisations to substantiate that formal regulatory processes have been impeded by additional requirement or "Green Tape" .

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Reference links:

- 1) <http://www.environment.gov.au/epbc/index.html>
- 2) https://www.qrc.org.au/01_cms/details.asp?ID=3274 Qld resources council attack water in EPBC
- 3) <http://larissa-waters.greensmps.org.au/content/speeches-parliament/larissa-waters-speaks-importance-strong-national-protection> Submission to Senate by Greens.
- 4) <https://theconversation.com/spinning-green-tape-as-the-climate-changes-6632> Green tape
- 5) <http://www.brisbanetimes.com.au/federal-politics/political-news/conservation-groups-threaten-action-if-green-tape-slashed-20130703-2pcfz.html>
- 6) <http://www.guardian.co.uk/world/2013/jul/03/environment-groups-kevin-rudd-safeguards>
- 7) <http://greghunt.com.au/Media/MediaReleases/tabid/86/articleType/ArticleView/articleId/2556/The-Coalitions-Policy-For-A-One-Stop-Shop-For-Environmental-Approvals-Joint-Press-Release-with-the-Leader-of-the-Opposition.aspx>
- 8) <http://greghunt.com.au/Media/Transcripts/tabid/89/articleType/ArticleView/articleId/2502/Transcript-ABC-Radio-National-Breakfast-interview-with-Gregg-Borschmann.aspx> ABC Gregg Borchmann interview
- 9) <http://www.abc.net.au/news/2013-07-18/federal-government-keeps-environmental-approvals-veto/4828298>