



Environment
Institute of
Australia and
New Zealand

Submission
to
House of Representatives
Standing Committee on Environment

Inquiry
Streamlining environmental regulation, 'green tape' and 'one stop shops'

April 2014



1. Background

- The Environment Institute of Australia and New Zealand (EIANZ) supports the streamlining of administrative processes associated with the administration of the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) and other national environmental legislative measures.
- The regulatory burden associated with compliance with both the EPBC Act and state and territory legislation has become so complex that environmental practitioners have great difficulty in understanding and applying the regulatory requirements.
- There does not appear to be strong evidence that the duplication of requirements between the EPBC Act and state and territory legislation, leads to significant additional benefits with respect to environmental outcomes.
- However, there is an argument put by environmental practitioners that the EPBC Act requirements in relation to the assessment and approval of projects have encouraged more robust evaluation and decision making about the environmental consequences of projects in relation to matters of national environmental significance.
- The EIANZ considers that there are significant opportunities for the harmonisation of legislative frameworks across Australia in the area of environmental protection and management by taking the best practices within each jurisdiction and developing a common administrative process that generates outcomes that are appropriate for a particular geographic area and its associated physical, biodiversity and social environmental values.

2. Key Proposals

The EIANZ considers that the following changes to the administration of the EPBC Act can leverage improvements that would result in reduced decision making times, reduced costs to project proponents; improved quality of applications and approvals; and environmental impact and assessment processes that better serve the needs and aspirations of communities.

- Better coordination and streamlining of environmental policy and practice is supported, including through the 'one stop shop' approach.
- Greater proficiency in the use of strategic environmental assessment methods as a basis for identifying and valuing the environmental constraints associated with development at a policy, regional and sub-regional scale.
- Preliminary environmental risk assessments that inform early project designs and result in targeted terms of reference for environmental impact assessments are supported.
- Executive summaries of environmental impact assessments written in plain language for community understanding are supported.
- Certification by 'suitably qualified and experienced' persons (see Section 4) that documentation relating to the administration of the EPBC Act is scientifically and technically accurate; is in accordance with regulatory requirements and government policy; and that proposed measures for avoidance, mitigation, remediation and offsetting will, if implemented, achieve the objective of minimising environmental harm, is supported.
- To ensure that there is ongoing value associated with the initial investment, and over time, growth in the value of that investment through new additions of data and analyses, data assembled for the purposes of environmental impact assessments needs to be collected and analysed in ways that allow it to be warehoused electronically a *Creative Commons Attribution 3.0 Australia License* so that it can be subsequently accessed by and added to through future project proponents.
- Increasing harmonisation of legislative / policy approaches to good practice environmental management across jurisdictions through the development and use of National Environmental Protection Measures and the adoption of unified legislative frameworks in each jurisdiction.

3. Strategic and Environmental Impact Assessment

3a Strategic Environmental Assessments

- The EIANZ supports the use of the Strategic Environmental Assessment Provisions of the EPBC Act.
- These provisions allow for the evaluation and assessment of legislative decision making frameworks, programs of action to protect environmental values, and importantly the environmental values of areas of Australia’s landscape that are subject to potential development.
- The strategic environmental assessment provisions of the EPBC Act should be used more widely to understand and assess the environmental values of Australia’s terrestrial and marine environments and contribute to regional and local planning by state and territory jurisdictions.
- There are important opportunities to partner with the states and territories, with the private sector and with research institutions in systematically carrying out strategic environmental assessments of the environmental values of Australia’s terrestrial and marine environments.
- Strategic environmental assessments should be being used as a means for organising and making accessible the wealth of environmental knowledge that is compiled at considerable expense through often disconnected project environmental impact assessments.
- Strategic environmental assessments should be used as a primary tool for contextualising project by project environmental impact assessments.
- Strategic environmental assessments should be used to identify opportunities at regional and sub-regional levels of landscape classification to avoid, mitigate, remediate and offset potential environmental harms associated with the nature, scale and intensity of development; assisting in identifying when the limits to achieving resilient and sustainable landscapes and environmental values are being approached.

3b Environmental Impact Assessments

- An important tool for assessing project environmental impacts and actions to effectively avoid, mitigate, remediate or offset project impacts; the EIANZ supports the use of project by project environmental impact assessment.
- The EIANZ supports the “one stop shop” approach where the requirements of the EPBC Act and state and territory requirements are assessed together and an integrated approval is granted by the state or territory jurisdiction in accordance with a nationally accredited process.
- The environmental impact assessment process could be substantially improved by the Commonwealth Government requiring that state and territory processes involve:
 - Project proponents preparing a risk assessment as part of an initial advice statement on a project that is likely to require an environmental impact assessment;
 - Terms of reference for the environmental impact assessment and the scope of investigations that are focussed on the matters identified through the risk assessment;
 - The preparation and publication of an executive summary of the environmental impact assessment in plain language that is accessible to the community; and
 - The certification by suitably qualified persons of the risk assessment, terms of reference, and environmental impact assessment and contributing documentation as being scientifically and technically accurate; in accordance with regulatory requirements and government policy; and that proposed measures for avoidance, mitigation, remediation and offsetting will, if implemented, achieve the objective of minimising environmental harm.
- The EIANZ considers it important to ensure that, in the assessment and approval of development proposals under the “one stop shop” approach, there is no reduction in the representation and careful consideration of environmental values, especially matters of national environmental significance.
- The EIANZ considers that the bilateral arrangements between jurisdictions should obligate the relevant approving minister to demonstrate that they have both considered the environmental consequences of a project design and its implementation and operational requirements; and ensured, through the conditioning of an approval, that

the project, when executed in accordance with the approval, will avoid, mitigate or remediate any impacts to environmental values.

3c Data and data access

- The EIANZ has long argued that there are considerable cost and process inefficiencies in the use that is made of data assembled as part of the data collection and analysis associated with environmental impact assessment.
- There is an urgent need to ensure that the data assembled for the purposes of environmental impact assessments is collected and analysed in ways that allow it to be warehoused electronically so that it can be subsequently accessed by and added to through future project proponents.
- This will ensure that there is ongoing value associated with the initial investment, and over time, growth in the value of that investment through new additions of data and analyses.
- The National Land and Water Resources Audit undertaken as part of the Natural Heritage Trust investment by the Commonwealth Government went a long way towards setting the foundations for this kind of approach to mining the data and analyses from environmental assessments and assembling it into value added products that serve the interests of good practice environmental management and project design and development.
- The Atlas of Living Australia is a current example of an investment by the Commonwealth Government in an electronic platform that brings together data about the biological resources of Australia from a wide variety of sources. The EIANZ supports the continuing investment of resources in the Atlas of Living Australia and its associated network of supporting activities.
- Both examples show that what is being proposed by the EIANZ is technically feasible with the right amount of effort put into building the systems that will facilitate the implementation of appropriate standards for the mining of data gathered in the environmental assessment process.

4. Suitably Qualified and Experienced Persons

- The EIANZ considers that the standard of work that contributes to the administration of the EPBC Act can be substantially improved by requiring documentation to be certified by 'suitably qualified and experienced persons'.
- Certification of environmental impact assessments and the assessment documentation itself to attest to the work being scientifically and technically accurate; in accordance with regulatory requirements and government policy; and that proposed measures for avoidance, mitigation, remediation and offsetting will, if implemented, achieve the objective of minimising environmental harm.
- A similar approach to quality control applies to the work of engineers, and to the activities of other professional disciplines such as architecture, planning, accounting and valuation.
- The term 'suitably qualified and experienced' has been deliberately used because it implies multiple criteria for providing quality assurance of documentation, and does not presume that certification can only be provided by a person from a particular discipline or profession.
- The EIANZ suggests that one of the key ways of recognising a person as being suitably qualified is through their professional grade membership of an organisation that holds its members accountable to a code of ethics and professional conduct.
- This approach will provide a higher level of assurance to decision-makers, regulators, the community, developers, employers and professional associates that appropriate and competent standards of good practice environmental management are being used under the EPBC Act.
- The EIANZ is such an organisation.

4a Certified Environmental Practitioners (CEnvP)

- The CEnvP scheme was developed by the EIANZ with support from the Commonwealth Government and is aimed at:
 - Boosting government, industry and community confidence in the proficiency of environmental practitioners;

- Providing recognition that good practice environmental management requires skilled and ethical environmental practitioners, in line with other professional counterparts; and
 - Driving good practice environmental management to new levels by formally assessing, recognising the proficiency of, and holding environmental practitioners accountable for professional development and ethical conduct.
- Candidates for the CEnvP scheme are required to formally prepare themselves for certification. At a minimum, applicants are required to have:
- An environment-related degree;
 - Five years of relevant environmental management experience over the previous ten years;
 - Three referees prepared to vouch for the applicants skills, performance and professional conduct;
 - A signed statement of ethical conduct in accordance with the EIANZ *Code of Ethics and Professional Conduct*;
 - Commitment to a minimum over two years of 50 hours of continuing professional development; and
 - Additional supporting evidence of claim including at least two written referee reports and certified copies of qualifications.
- Applicants are not required to be members of the EIANZ.
- Once reviewed by the CEnvP Registrar and found to be complete, the application is sent to the appropriate regional certification panel, which conducts an assessment interview with the applicant to complete the process. The panel recommendation goes to the Certification Board, which makes a decision on the application and enters the name of the applicant on the Register of Certified Practitioners.
- Certification is formally reviewed every two years. To maintain CEnvP status, certified practitioners need to provide evidence of Continuing Professional Development, a statement verifying any changed circumstances in employment, and attest to their continuing ethical conduct in accordance with the EIANZ *Code of Ethics and Professional Conduct*.

- The CEnvP scheme has a complaints procedure under which any person or organisation can lodge a complaint about the professional practice of any certified environmental practitioner. All complaints are reviewed by the CEnvP Board and treated in strict confidence. The Certification Board will determine the matter and may call for evidence from the complainant and the certified practitioner. If it is established that the complaint is justified and is not frivolous, malicious or mischievous then the certified practitioner may be struck off the Register. In the event of being notified of the Board's intention to strike a CEnvP off the register, the practitioner may exercise a right of appeal to an Appeal Committee.
- The CEnvP scheme is recognised across both Australia and New Zealand with similar certification schemes also established in other parts of the world.
- Over 500 environmental practitioners have been certified under the scheme – this having been achieved without any regulatory requirement for environmental practitioners to become certified, as for example is the case for anyone who calls themselves an engineer or an architect.
- The EIANZ believes that there will be an increasing demand by governments, industry and the community for environmental practitioners to take responsibility for the standard and quality of their advice and work, and that the CEnvP scheme provides an effective basis for environmental practitioners to be recognised as 'suitably qualified and experienced'.

5. Listing of Threatened Species

- The EIANZ considers that there are substantial opportunities for streamlining the identification, protection and conservation of endangered and threatened species and communities.
- As with environmental assessment processes, there is significant overlap and duplication of objectives, processes and regulatory requirements for the identification, protection and conservation of endangered and threatened species and communities across jurisdictions.
- At the national level endangered and threatened species and communities have become the major focus of environmental assessment activities and the conditioning of environmental approvals. This is but one feature of the environmental values that need to be the subject of assessment and approval.
- The endangered and threatened species focus at the national level has also driven the development and implementation of complex arrangements for offsets against impacts to and losses of environmental values. The EIANZ notes that the Senate is currently conducting an enquiry into the implementation of offset policies, and suggests that the findings of the Senate enquiry need to be linked to the broader enquiry being undertaken by the House of Representatives.
- There is no particular advantage to this overlap and duplication, nor any reason that is based in good practice environmental management for different approaches to be applied in different jurisdictions.
- The EIANZ suggests that there would be significant advantage in having a common approach to the identification, protection and conservation of endangered and threatened species and communities across jurisdictions. This advantage would be characterised by a consistent approach to the assessment and classification of the status of species and ecological communities, and the application of good practice environmental management approaches to the protection and management of endangered and threatened species and ecological communities.
- The EIANZ suggests that there should be a national strategy for biodiversity conservation that has, as its principle implementation mechanism, a single legislative

approach to the identification, protection and conservation of endangered and threatened species and ecological communities, which is enacted in one jurisdiction and adopted across all jurisdictions. The EIANZ is interested in seeing wider application of National Environmental Protection Measures as the framework for ensuring that there is a national approach to the mandating of good practice environmental management standards.

- The EIANZ considers that there are opportunities for the relevant jurisdictional Ministers, operating through the Council of Australian Governments ministerial level council that should take on the responsibilities of the former Standing Council on Environment and Water, to take up this challenge. The EIANZ supports the comments issued by way of a communiqué following the meeting of Environment Ministers on the 29 April 2014 and notes the priority that was given to “identifying unworkable, contradictory or incompatible regulation and seeking opportunities to harmonise and simplify regulations”, and the focus on “best practice regulation, species and heritage listing processes, and simplification of land planning”.
- The challenge when dealing with the mandating of good practice environmental management is that the canvas is very broad. The EIANZ suggests that the best gains will be made, not by trying to tackle all parts of the canvass at once, but by focusing on a single aspect. In that context the EIANZ is suggesting that the mandating of harmonised requirements for good practice environmental management standards for the identification, protection and conservation of endangered and threatened species and ecological communities would be a good place to begin and quickly demonstrate the benefits that can be achieved through this approach.

6. About the EIANZ

- The EIANZ, as the leading membership based professional organisation in Australia and New Zealand is an advocate for good practice environmental management, and holds members accountable for ethical and competent practice.
 - It regularly delivers professional development activities about a wide range of subjects of interest to environmental practitioners, and delivers an effective training program for early career environmental practitioners in seven core environmental and professional practice proficiencies.
 - The EIANZ has established the Certified Environmental Practitioner Scheme to assess and certify competent experienced environmental practitioners working in government, industry and the community.
 - The EIANZ is a not-for-profit, charitable organisation incorporated in Victoria, and a Registrable Australian Body under the *Corporation Act 2001* (Cwth), allowing it to operate in all Australian jurisdictions.
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