

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Environment portfolio**

**Question No:** 40  
**Hearing:** Additional Estimates  
**Outcome:** Outcome 1  
**Programme:** Environment Assessment and Compliance Division (EACD)  
**Topic:** EPBC Act – enforcement, risk management, application of precautionary principle  
**Hansard Page:** N/A  
**Question Date:** 23 February 2015  
**Question Type:** Written

**Senator Canavan asked:**

I refer to the process and approach adopted by the Department in enforcing the EPBC Act, in particular the risk-based approach used to assess whether a project needs referral or is deemed to cause impact to Matters of National Significance under the Act, and how that applies in regard to threatened species. The compliance enforcement policy of the department states:

“A risk-based approach is used to prioritise cases and identify those that warrant further investigation. Compliance and enforcement activities are undertaken in accordance with the principles of natural justice and procedural fairness. We may also seek the opinion of experts on specific subject matter.”

1. If local knowledge cannot be used, are those seeking to progress a development project expected to carry out targeted surveys at their cost?
2. Does the Department take into account the likely costs, particularly in areas with very poor species records, in making its judgements?
3. What steps does the Department take in such instances to ensure that the development will not be unnecessarily impeded?
4. Based on the Department's experience in this area, can you provide an approximate estimate of the likely costs associated with proving that freshwater sawfish will not be impacted under the Act in the upper catchments of the Gulf of Carpentaria for a tree clearing permit of 3,000ha?

**Answer:**

1. The *Environment Protection and Biodiversity Conservation Act 1999* (the Act) places a duty upon people undertaking an action to ensure that their works do not significantly impact on matters of national environmental significance. This includes undertaking appropriate due diligence. In certain circumstances this includes obtaining the advice of an appropriately qualified ecologist or botanist to assess the potential for the project to impact on species or ecological communities protected under the Act.

The Department has a range of tools available on its website to assist proponents to determine if their project is likely to require approval under the Act. For example, the “Protected matters search tool” provides landscape scale indicative mapping and the report generated from that database provides links to matters of national environmental significance likely to be found in that region.

Proponents can also utilise the Department's website to examine documentation attached to other referrals which may have been made in their bioregion. These referrals often include detailed survey data or Environment Impact Statements which may assist in informing the proponent as to whether additional survey work is required and a referral is warranted.

2. The tools and information available on Departments' website, such as the "*Protected Matters Search Tool*" and documentation attached to other referrals, provide proponents with a starting point to guide their due diligence in planning to avoid a significant impact on protected matters.
3. The Department will only seek referral of projects for assessment and decision under the Act in circumstances when there is appropriate evidence to demonstrate that the project will have, or is likely to have, a significant impact on a matter of national environmental significance.
4. The Department does not hold records which would enable us to estimate to the potential costs associated with such a survey.