

12 December 2008

Committee Secretary
Senate Standing Committee on Environment,
Communications and the Arts
Department of the Senate
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For Attn of Senator McEwen,

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ANEDO was pleased to attend the Senate Environment, Communications and the Arts Committee inquiry into the operation of the *Environment Protection BC Act 1999* (the Act) on 10 December 2008. At that inquiry ANEDO took on notice a question regarding how the cumulative impacts of a project could more adequately be taken into account by decision makers.

ANEDO has consistently highlighted that one of the more fundamental inadequacies of the Act has been this absence of a legislative mechanism that requires decision makers to take into account the overall cumulative impacts of unrelated developments. ANEDO submits that the legislation should be amended to contain what is essentially a two stage process to address this inadequacy.

The first stage would incorporate the use of strategic assessments into the Act. Strategic environmental assessments (SEA) are the application of environmental impact assessment to policies, plans and programs¹. SEA's should implement the use of landscape scale conservation and development plans to identify those areas where the impacts of development are unacceptable, as well sites where the consequences of infrastructure would be least environmentally detrimental.

The use of SEA's have the potential to provide positive environmental outcomes if carried out in an appropriate manner; they need to be conducted in a way that adheres to strict criteria to fetter the discretion of the Minister and restrict the opportunity for subjective decision making. Additionally there needs to be clear provisions in the Act that provide for effective public participation to ensure transparency and accountability in the decision making process. Furthermore the legislation should be amended to include a provision that stipulates if the SEA is not achieving the intended environmental outcomes, an opportunity exists to suspend or revoke the declaration.

The second stage of the process concerns where the Minister is deciding whether to approve a controlled action that may impact upon a matter of national environmental significance (MNES). A specific head of consideration should exist in the legislation requiring the Minister to consider the cumulative impacts (both past and present) of a project on a MNES.

Should the Committee require any further clarification, or questions answered, please contact the office.

Yours sincerely
Environmental Defender's Office (NSW) Ltd

Jeff Smith
Director

¹ Marsden, S. 1999, 'Strategic Environmental Assessment in Australia – An Evaluation of Section 146 of the Environment Protection and Biodiversity Conservation Act 1999', *Griffith Law Review*, Vol 8, No 2.

