Australian Government

Department of the Environment and Energy

Dr Gordon de Brouwer PSM
Secretary

Ref: EC17-000461

Mr Gerry McInally
Committee Secretary
Red Tape Committee
Department of the Senate
PO Box 6100
Canberra ACT 2600

Dear Mr McInally

SUBMISSION TO THE SELECT COMMITTEE ON RED TAPE – ENVIRONMENTAL ASSESSMENTS AND APPROVALS

Thank you for your invitation to comment on the effect of restrictions and prohibitions on business (red tape) on the economy and community in relation to environmental assessments and approvals.

The role of the Department is to advise on and implement environment and energy policy to support the Government in achieving a healthy environment, strong economy and thriving community now and for the future.

In responding to the terms of reference to the Select Committee, I would like to draw your attention to the effect of environmental assessments on compliance costs, economic output and government revenue, and also to efforts by the Australian Government to reduce red tape across jursidictions.

The effect of environmental assessments on compliance costs, economic output and government revenue

In undertaking its role, the Department continues to seek opportunities to improve the efficiency and effectiveness of the regulatory regime for environmental assessments and approvals administered under the *Environmental Protection and Biodiversity Conservation Act 1999*.

The purpose of environmental assessments and approvals is to meet the objects of the EPBC Act by ensuring that economic development proceeds within the context of ecological sustainability and protection. In the first instance, the EPBC Act limits regulatory burden and compliance costs on the community as it focuses on matters of national environmental significance.

Furthermore, the EPBC Act, and the Department's application of the Act, provide for a range of methods for assessing development projects so that the right amount of effort and rigour is applied to proposals of varying scale, complexity and risk to the environment and streamlines assessment of smaller or less complex projects.

With respect to government revenue, the Department has statutory authority to charge proponents for undertaking environmental assessments of actions. These cost recovery arrangements were first introduced in 2014. Cost recovery more equitably shares the costs of regulating projects that may have a significant impact on the environment between the public and those who stand to derive a private benefit from undertaking projects. This is consistent with the Australian Government Charging Framework which directs that where an individual or organisation creates the demand for government activity they should generally be charged for it.

Large organisations are liable for the charges for environmental assessments while small businesses and individuals may request an exemption from paying fees. Where an applicant is eligible for an exemption, the cost for the Department to carry out an environmental assessment is met through the Department's annual budget appropriation so that applicants subject to cost recovery do not subsidise applicants who are exempt from fees.

Efforts to reduce red tape across jurisdictions

The Department is committed to reducing unnecessary regulation, improving coordination with the states and territories and applying our regulatory tools as efficiently and effectively as possible. Substantial benefits have already been achieved under the Australian Government's One-Stop Shop reforms, with assessment bilateral agreements in place with every jurisdiction. These agreements allow the Commonwealth and each state and territory to assess and approve proposals using a single set of project documentation.

In 2015, the Australian Government introduced a Bill to amend the EPBC Act to help ensure the durable operation of approval bilateral agreements. The Bill lapsed following the proroguing of Parliament before the last election. More information about the One-Stop Shop reforms is on the Department's website at http://www.environment.gov.au/epbc/one-stop-shop.

The Government is promoting the use of strategic assessments under the EPBC Act, which deliver greater economic certainty, regulatory efficiencies for business and improved ecological outcomes compared to project-by-project approvals. Strategic assessments are similar to state-based land-use planning, operating at a landscape-scale and incorporating the assessment of impacts associated with all likely future development that will occur under a particular plan, program or policy. Activities covered by a strategic assessment approval and taken in accordance with the endorsed policy, plan or program do not require any further assessment or approval under the EPBC Act. For example:

- In 2014, the National Offshore Petroleum Safety and Environmental Management Authority's environmental management authorisation process was approved under the EPBC Act, creating a single regulator for offshore oil and gas activities in Commonwealth waters.

- Recently, a new strategic assessment program between the Commonwealth and BHP was endorsed under the EPBC Act. This will support the development of new iron ore mines and associated infrastructure for the next 70 years in the Pilbara, Western Australia.

- Earlier this year, the Commonwealth Environment Minister and NSW Planning Minister agreed to commence a new strategic assessment of the Priority Growth Areas in Western Sydney. This will build on the existing strategic assessments of Sydney's North West and South West Growth Centres completed in 2011.

More information about strategic assessments is on the Department's website at http://www.environment.gov.au/protection/assessments/strategic.

The Department is also working with the states and territories to improve data sharing and access – making environmental data discoverable, accessible and useable. Complementary policy innovations include increased reliance on state conditions of approval through the EPBC Act condition-setting policy, the promotion of outcomes-based conditioning of all proposals, and streamlined post-approval requirements for proponents.

Consistent with a decision at a Meeting of Environment Ministers, the Department is working with the states and territories to implement an intergovernmental memorandum of understanding on a common assessment method for nationally threatened species. Under the reform, jurisdictions are collaborating on threatened species listing assessments using agreed categories and criteria. This will deliver consistent and aligned lists of threatened species across jurisdictions, providing certainty to the regulated community and reducing unnecessary regulation.

Finally, the Department is delivering a range of activities designed to improve our regulatory practice, with particular focus on the way we engage with the regulated community. This includes co-designing a new Environmental Regulatory Framework, developing a comprehensive communications strategy, and improving access to information to support the community to understand and comply with national environmental laws.

Yours sincerely

Gordon de Brouwer

8 June 2017