

Environment and Communications References
Answers to questions on notice
Climate Change, Energy, the Environment and Water Portfolio

Inquiry: Australia's extinction crisis

Question No: IQ24-000071

Hearing Date: 17 April 2024

Division/Agency: Nature Positive Regulation Division

Topic: Darwin Pipeline Duplication Project

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Question Date: 17 April 2024

Question Type: Spoken

Senator Hanson-Young asked:

CHAIR: The reason I'm interested in this is because on 27 March this year the approval for the Darwin Pipeline Duplication Project was published on the EPBC portal. This was the Thursday afternoon before the Easter long weekend, after two weeks of parliament. Was that approval published within the legally required timeframe?

Mr Edwards: I don't have individual project information, so I'd have to take that on notice.

CHAIR: I appreciate you can take that on notice. The date by which it says it was approved and the date by which it was released is at least two weeks long. You can take it on notice, but I put to you that that was a breach.

Mr Edwards: We'll look into that. We do have times where it takes longer. For example, prior to Christmas we had a number of approvals. We have systems down. We have people away. We do our best, but there can be lags.

CHAIR: Yes, but this wasn't getting things out the door within time. This was getting things out the door, putting out the trash, on the Thursday afternoon before Good Friday.

Mr Edwards: We endeavour to publish as soon as possible.

CHAIR: I understand that, in accordance with sections 135A and 170A of the EPBC Act, the recommendation report that informs the decision must be both provided to anyone who requests it and published within a week of the decision being made. Is that correct?

Mr Edwards: I'd have to look at that provision. In reality, what actually happens is most people look for a statement of reasons, which is a more digestible version of the pretty complex piece. We generally respond to that and then issue a statement of reasons as the more helpful, accessible way to understand a decision.

CHAIR: I understand, as of this morning, that report still has not been published. First of all, there was a breach in relation to the publication of the approval over two weeks, and, second, we're still waiting for that recommendation report or the statement of reasons to be published.

Mr Edwards: It's not standard for us to publish. As you said, people can request, but we don't, by standard practice, publish recommendation reports. In a normal course of events, people will request a statement of reasons, and that's the more accessible document when we have such a request. We'll then produce that and provide that to the individual.

CHAIR: You have had this request, though. Organisations have asked you for these statements of reasons, and they haven't been given.

Mr Edwards: We absolutely do prepare statements of reasons when a formal request for one is provided. It can take some time to prepare that statement of reasons. I'd have to look at individual instances, but I can assure you that we do action statement-of-reason requests.

CHAIR: I understand that there has been a request for this information under the particular sections of the act, and this information still has not been given—so another breach.

Ms Parry: Mr Edwards has indicated what the process is. You can appreciate that we didn't come here today to talk about individual projects; we simply don't have that information in front of us and we'll have to take it on notice.

CHAIR: Yes. I understand that. I understand it's a specific case, so I'm happy for you to take it on notice. What I'm interested in, though, is that you are the department, we're talking about having to have compliance and monitoring, and you're not even following your own rules.

Ms Parry: I think that (a) that is not a fair characterisation and (b) we don't know that because we've taken the question on notice. We don't know the particular project—the particular dates, the particular request and what has been responded to. We'd appreciate if we could take that on notice.

Answer:

Section 170A of the EPBC Act notes that any approval decision must be published within a week of it being made. The approval was published just outside of this timeframe. Where a statutory requirement is not met, this is reported in the Department's Annual Report.

In accordance with section 135A of the EPBC Act, the recommendation report that helps inform the decision can be provided to anyone who requests it. A request for the recommendation report for the Darwin Pipeline Duplication project has been made and this will be provided to the requestee. A further request has been made for a Statement of Reasons, this is currently being compiled.