

Environment and Communications References Committee

Answers to questions on notice

Agriculture, Water and the Environment Portfolio

Committee:	Environment and Communications References Committee
Inquiry:	Australia's faunal extinction crisis
Question No:	1
Hearing Date:	30 July 2020
Division/Agency:	Department of Agriculture, Water and the Environment
Topic:	Draft legislation
Hansard Page:	34
Question Date:	30 July 2020
Question Type:	Spoken

Senator Hanson-Young asked:

CHAIR: Have you started drafting that legislation?

Mr Tregurtha: We're currently working with the minister and the government in relation to that legislation, yes.

CHAIR: When did you start drafting the legislation?

Mr Tregurtha: I'd have to take the exact date on notice. We would have been thinking about it, certainly—what we needed to draft it—when Professor Samuel's report was released on the 20th, but I don't have the exact date with me so I'll have to take that on notice.

CHAIR: Would you be able to give us an indication as to whether you think drafting instructions were being prepared prior to the interim report being released?

Mr Tregurtha: I'd say it's quite correct to consider that the department had started preparing legislation prior to the report being publicly released. As you'll be aware, Professor Samuel provided his report to the minister and the government at the end of June, which was the anticipated timing for that.

CHAIR: Yes.

Mr Tregurtha: Certainly, the government had the report at that point in time. I expect that when I go back and have a look it will be prior to the public release of the report, yes.

CHAIR: Okay. So somewhere between when Professor Samuel gave the minister his report and when the report became public, not prior to the report being handed to the minister?

Mr Tregurtha: I wouldn't think so, but I'd really like to go back and check the record.

CHAIR: Could you? That would be helpful, thank you. Have you been given instructions to draft legislation that would go to the recommendation in relation to an independent cop on the beat?

Answer:

1. The Independent Reviewer, Professor Graeme Samuel AC, conducted meetings throughout May and June in relation to the directions of the Interim Review, sharing his suggestion that devolution should be progressed. This included a meeting on 4 June 2020 with a Senior Officials Group from all State and Territories, a subcommittee of the Meeting of Environment Ministers.
2. The Department provided initial drafting instructions to the Office of Parliamentary Counsel on 19 June 2020. This followed the Prime Minister's address to the Committee for Economic Development of Australia State of the National Conference on 15 June 2020, where he announced that the Government's ultimate objective was to streamline Commonwealth and State processes to a point of 'single touch approvals'. The Prime Minister noted that this would be further informed by the EPBC Act Review.

3. The Department provided additional drafting instructions to the Office of Parliamentary Counsel on 6 July 2020.

Environment and Communications References Committee
Answers to questions on notice
Agriculture, Water and the Environment Portfolio

Committee: Environment and Communications References Committee
Inquiry: Australia's faunal extinction crisis
Question No: 2
Hearing Date: 30 July 2020
Division/Agency: Department of Agriculture, Water and the Environment
Topic: Major projects - date published and status
Hansard Page: 35-36
Question Date: 30 July 2020
Question Type: Spoken

Senator Hanson-Young asked:

CHAIR: On 15 June the Prime Minister's CEDA state of the nation conference address announced a priority list of 15 major projects that the government wanted to put on a fast track for approval under the bilateral model between Commonwealth, states and territories. You'd be aware of that?

Mr Tregurtha: Yes, Senator.

CHAIR: Do you know what the full list of those 15 projects is?

Mr Tregurtha: Yes, they've now been publicly released. They're on the department's website under—you can search for EPBC major projects. I can read them out now for you if you would like.

CHAIR: That would be helpful.

Mr Tregurtha: Just bear with me while my internet—

CHAIR: Could I ask when they were uploaded to the EPBC website?

Mr Tregurtha: I would have to take that on notice; that's not my area of the department.

CHAIR: That's fine. If somebody could get a date for me, that would be helpful.

Mr Tregurtha: Sorry, I don't know that my device is going to let me do it.

CHAIR: That's okay. You can take that on notice. It's obviously there and it's not hard to provide. If I could get the date of when that was published, that would be helpful.

Mr Tregurtha: I have found that out, at least. On 24 July 2020 national cabinet endorsed the list of major projects, and the list has now been published on the department's website. I'm not sure whether it was uploaded on last Friday or since then, but it would be over the course of that period. We can give you the exact date when we give you the set of projects as well.

...

CHAIR: You may need to take this on notice, that's fine. I would like to know where each of those 15 projects is up to. I understand that the Prime Minister has set out some time frames and some targets in terms of how long the process should take. It would be helpful for us to see what those 15 projects are, what the status is and where that list falls in the targeted time frame. Do you understand what I'm after?

Mr Tregurtha: Yes, absolutely. We can provide that.

CHAIR: You can provide that?

Mr Tregurtha: I do have the list now, if you would like to hear it.

CHAIR: Yes.

Mr Tregurtha: The 15 projects are road infrastructure in Western Australia; Perth Airport upgrades; the M12 Western Sydney freeway link; the Sydney Metro Greater West—Western Sydney airport rail link; inland rail in Victoria, New South Wales and Queensland; Coffs Harbour Bypass in New South Wales; emergency town water projects in New South Wales; Snowy 2.0; the Narrabri Gas Project; the Burrup Hub in Western Australian; a set of iron ore

projects being proposed by Rio Tinto in Western Australia; rail projects in Western Australia; the Olympic Dam extension in South Australia; EnergyConnect in New South Wales and South Australia; and Marinus Link in Tasmania and Victoria.

Answer:

1. On 24 July 2020, National Cabinet endorsed the list of 15 major projects. Following the announcement, the list was published on the Department’s website on the same day (see www.environment.gov.au/epbc/major-projects).
2. The Prime Minister has committed to accelerating Commonwealth assessment and approval timeframes without compromising environmental safeguards under the EPBC Act.

The Department is currently working with our State counterparts to establish joint assessment teams and completion timeframes for each major project in line with the Government’s commitments.

The full list of major projects, as published on the Department’s website, is provided below:

Major Project	State	Project Description
Road infrastructure WA	Western Australia	MainRoads WA is managing a series of road projects that will provide transport corridors to regional centres and alleviate congestion.
Perth Airport upgrades	Western Australia	Perth Airport is proposing to develop a new runway to reduce delay costs to airlines and passengers and increase tourism potential.
M12 (Western Sydney Freeway link)	New South Wales	Transport for NSW is proposing to construct a new 16 kilometre east-west motorway from the M7 motorway at Cecil Hills to the Northern Road at Luddenham to connect the Western Sydney International Airport to other employment and population centres.
Sydney Metro Greater West (Western Sydney Airport Rail link)	New South Wales	Transport for NSW is developing a new metro line to service the new Western Sydney Airport from St Mary’s to the airport and beyond. The rail will become the Western Parkland City’s transport spine, linking residential areas with job hubs and the new Western Sydney International Airport.
Inland Rail	Victoria, New South Wales, Queensland	The Australian Rail Track Corporation is managing the Inland Rail project that will provide transit times of less than 24 hours for freight trains between Melbourne and Brisbane, via regional Queensland, New South Wales and Victoria.
Coffs Harbour Bypass	New South Wales	Transport for NSW is proposing to upgrade approximately 14 km of the Pacific Highway at Coffs Harbour. The bypass seeks to improve connectivity,

		road transport efficiency and safety for local and interstate motorists.
Emergency town water projects	New South Wales	Water NSW is managing a series of projects to secure, or at least extend, critical human water supply to drought affected regional NSW towns and contribute to the longer-term drought resilience.
Snowy 2.0	New South Wales	Snowy 2.0 will link two existing dams, Tantangara and Talbingo, through 27 km of tunnels and building a new underground power station. This will reduce volatility in the electricity market, ensure reliability and help to bring down rising electricity costs.
Narrabri Gas Project	New South Wales	Santos is proposing to develop a coal seam gas field in the Gunnedah Basin of New South Wales. This project could supply half of NSW's natural gas needs.
Burrup Hub	Western Australia	Woodside is proposing to link its existing gas processing facilities on the Burrup Peninsula (north of Karratha, Western Australia) with new gas resources, to create a regional Liquefied Natural Gas (LNG) production centre to service both domestic and export markets.
Iron ore projects	Western Australia	Rio Tinto is proposing a significant expansion of mining operations at both new and existing iron ore mine sites.
Rail projects	Western Australia	METRONET are overseeing an integrated transport and land use framework that will support growth of the Perth metropolitan region over the next 50 to 100 years. It includes new rail and rail stations.
Olympic Dam extension	South Australia	BHP is proposing to expand its Olympic Dam mine that produces a range of materials including copper, uranium, gold and silver. Production at the mine would increase from 200,000 tonnes per annum of product to up to 350,000 tonnes per annum.
EnergyConnect	New South Wales and South Australia	Project EnergyConnect is a proposed high voltage transmission line connection between the South Australian and New South Wales power grids.
Marinus Link	Tasmania and Victoria	Marinus Link is a proposed 1500 megawatt capacity undersea and underground electricity connection, to more strongly link Tasmania and Victoria as part of Australia's future electricity grid.

Environment and Communications References Committee

Answers to questions on notice

Agriculture, Water and the Environment Portfolio

Committee: Environment and Communications References Committee
Inquiry: Australia's faunal extinction crisis
Question No: 3
Hearing Date: 30 July 2020
Division/Agency: Department of Agriculture, Water and the Environment
Topic: Responsibility for the 79 cases considered by the ANAO as noncompliant
Hansard Page: 37
Question Date: 30 July 2020
Question Type: Spoken

Senator Hanson-Young asked:

CHAIR: Who was ultimately responsible for—let's just get the exact number—the 79 cases that were considered by the ANAO being noncompliant?

Mr Tregurtha: The way the EPBC Act operates in relation to the cases you're talking about and their assessment and approval functions is that assessments and approvals are undertaken by a range of different staff in the department. Some decisions are ultimately made either by the minister or by senior executives of the department, under delegation. I can't give you a single answer to your question.

CHAIR: So the buck stops with no-one?

Mr Tregurtha: In relation to that assessment and approval function: as I said earlier, it exists within a particular division of the department which reports to the division head and then to the deputy secretary, and, ultimately, to the secretary of the department—all of whom are responsible to the government.

Ms Campbell: I will add that the department has accepted the recommendations and has accepted responsibility, and has taken steps to fix those recommendations.

CHAIR: Has anyone got the sack?

Mr Tregurtha: Not that I'm aware of.

CHAIR: Has anyone been counselled or disciplined as a result of these errors?

Mr Tregurtha: It's not my area. I'd have to take that on notice.

Answer:

The Department has accepted responsibility for the findings of the ANAO report and has taken immediate steps to improve its performance, consistent with the ANAO's recommendations.

Environment and Communications References Committee
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Agriculture, Water and the Environment Portfolio

Committee: Environment and Communications References Committee
Inquiry: Australia's faunal extinction crisis
Question No: 4
Hearing Date: 30 July 2020
Division/Agency: Department of Agriculture, Water and the Environment
Topic: 90 cases reviewed by the ANAO
Hansard Page: 37-38
Question Date: 30 July 2020
Question Type: Spoken

Senator Hanson-Young asked:

CHAIR: Please do; I would like to know if there have been any consequences for personnel, in relation to these failings. The Auditor-General used 90 cases as samples. Are you aware of each of those cases?

Mr Tregurtha: No, I'm not responsible for the area that—

CHAIR: Who in your department is?

Mr Tregurtha: That would be the head of the environmental approvals division and the relevant deputy secretary.

CHAIR: Are you aware of whether the department is fully aware of which of the 90 cases the ANAO looked at?

Mr Tregurtha: I'm not aware.

CHAIR: Is anybody else?

Ms Campbell: No.

CHAIR: Mr Richardson, are you aware of that?

Mr Richardson: No.

CHAIR: Could you take that on notice?

Mr Tregurtha: Sorry; what's the question?

CHAIR: What are the 90 cases that they looked at for their various sampling?

Mr Tregurtha: We can certainly take that on notice.

CHAIR: I would also like that list of 90 cases to be tabled to this committee on notice.

Mr Tregurtha: I'm not sure I'm in a position, because I don't know whether we're capable of doing that—

CHAIR: If you do have them, it would be great to have them tabled.

Mr Tregurtha: Indeed. I will certainly raise that with my colleagues.

CHAIR: Thank you. I'm concerned about that list because, out of that sample of 90 cases where approvals had been given or offsets had been agreed to, there have been failings of compliance and monitoring, and sometimes the paperwork just wasn't even there. These are all actual live cases; they're not hypothetical. Are you aware of what the department is now doing in response to those failures? I'm not talking about responding to the recommendations, which were broad level, on the systematic problems; I'm talking about each of those individual cases. Clearly there have been some stuff-ups, and, in the interests of everybody, it would be good to get them rectified.

Mr Tregurtha: Again, I'm not aware. If you want detail in relation to that, we will have to take it on notice.

CHAIR: Once we've established whether the department knows what those 90 cases are, I would like to see what follow-up the department has done for each of them, given the failures or the problems that have been identified.

Mr Tregurtha: Certainly. I'll paraphrase that, just to ensure that I've understood you correctly. What you're asking us is: of the 90 cases (a) is the department aware of which of those cases had deficiencies as indicated by the ANAO and (b) should the department become aware of those deficiencies, what action is being taken in each case to resolve those deficiencies?

CHAIR: Bingo. Perfect. Thank you. Senator Green.

Answer:

The department does not have information concerning the particular cases that were considered by the ANAO.

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Agriculture, Water and the Environment Portfolio

Committee:	Environment and Communications References Committee
Inquiry:	Australia's faunal extinction crisis
Question No:	5
Hearing Date:	30 July 2020
Division/Agency:	Department of Agriculture, Water and the Environment
Topic:	Allocation of \$25 million in relation to the EPBC assessment and approvals functions
Hansard Page:	38-39
Question Date:	30 July 2020
Question Type:	Spoken

Senator Green asked:

Senator GREEN: I want to ask a question that was raised when I was asking some questions to the ANAO today. There was a reference in that report to \$25 million allocated to the department in 2019. I believe that funding was to support a key strategy around triaging processes. Can someone at the table talk about that funding and how that was then allocated within the department?

Mr Tregurtha: I can talk to the funding in broad terms.

Senator GREEN: Thank you.

Mr Tregurtha: I certainly can't give you any detail, though, in relation to how that funding was specifically allocated. Again, that's in a different area of the department. But, certainly, the government did provide an additional \$25 million in relation to the EPBC assessment and approvals functions to ensure that projects were getting done on time—getting assessed and approved through the Commonwealth system on time—and the provision of that funding has already resulted in a marked improvement in the department's performance in relation to its time frames on assessments and approvals.

Senator GREEN: So when that report had been finished, the Audit Office said that it hadn't been implemented at the time of fieldwork. That has been implemented now—using that funding?

Mr Tregurtha: Pardon me? I missed some of that.

Senator GREEN: That's okay. The audit report said that this was not implemented at the time of fieldwork. They hadn't seen those changes take place at the time they were conducting their fieldwork. My question was whether you knew—and I think you've answered this—that that work had started to take place.

Mr Tregurtha: Absolutely. There has been a substantial amount of additional effort in relation to those matters, as is evidenced of the increased timeliness of the department.

Senator GREEN: Okay. Did that funding result in more staff being employed or allocated to that area around approval processes?

Mr Tregurtha: My understanding is that there have been some additional staff put on. I'm not sure in what shape or form that specifically took. I'd have to take that on notice in terms of any precision beyond my general understanding.

Senator GREEN: Yes. I would like the department to take that on notice. It would be good to understand how that funding has been used, how it has been implemented, to deliver that strategy. I would appreciate that. I understand there are other people in the department who might be able to answer that question who aren't there today.

Mr Tregurtha: We can certainly take that on notice.

Answer:

Following the Government's announcement on 21 November 2019, the Department received \$25m 'Congestion Busting' funding as part of the 2019-20 MYEFO process to increase the number of project proposals assessed by the Department being completed within the statutory timeframes of the *Environment Protection and Biodiversity Conservation Act 1999*.

At 10 August 2020, the Department had engaged around 100 additional assessment, compliance and support staff to improve its capacity to deliver assessments within statutory timeframes.

These additional resources allowed the Department to improve its performance in meeting statutory timeframes for key decisions, from 19 per cent in the December 2019 quarter, to 98 per cent in the June 2020 quarter.

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Committee: Environment and Communications References Committee
Inquiry: Australia's faunal extinction crisis
Question No: 6
Hearing Date: 30 July 2020
Division/Agency: Department of Agriculture, Water and the Environment
Topic: Releasing a consultation draft
Hansard Page: 39
Question Date: 30 July 2020
Question Type: Spoken

Senator Green asked:

Senator GREEN: I might have missed this before—I apologise again—but will there be a consultation draft of the legislation released?

Mr Tregurtha: I'm not sure. I haven't specifically looked at the question—including with the minister's office—at this point.

Senator GREEN: If it's intended to introduce the legislation in the first sitting week in August—now that the next two sitting weeks have been cancelled—surely a decision about whether a consultation draft will be released has been made already?

Mr Tregurtha: Again, I'm sorry. I'm not in a position to answer that question today. I'll have to take that on notice.

Senator GREEN: Could you take on notice whether there will be a consultation draft and, if the answer to that question is no, I would like to know from the department why a consultation draft is not being made available and what the basis is for that decision. If that's not something you can speak to, I'm happy to refer that question to the minister. But if you can take that on notice for the time being, that would be helpful.

Mr Tregurtha: Thank you. We'll take it on notice. As you rightly point out, if it is a question that's better directed to the minister, I will refer that to her office.

Answer:

The Department has not prepared a consultation draft. This is a decision for the Minister for the Environment.

Environment and Communications References Committee

Answers to questions on notice

Agriculture, Water and the Environment Portfolio

Committee: Environment and Communications References Committee
Inquiry: Australia's faunal extinction crisis
Question No: 7
Hearing Date: 30 July 2020
Division/Agency: Department of Agriculture, Water and the Environment
Topic: Meeting of environmental ministers
Hansard Page: 41
Question Date: 30 July 2020
Question Type: Spoken

Senator Hanson-Young asked:

CHAIR: Has there been a roundtable or anything like that in relation to state environment ministers yet, since the release of the report?

Mr Tregurtha: Since the release of the report, no.

CHAIR: Is there one being planned? Is there going to be an environmental ministers council meeting?

Mr Tregurtha: Again, I'm not aware of a particular booking for that meeting of environment ministers that you're talking about, but I am aware that that's a meeting that is regularly scheduled for the minister to meet with her counterparts.

CHAIR: If you can take on notice when the next scheduled one is, that would be helpful.

Mr Tregurtha: Yes, certainly we can do that.

Answer:

The date for the next Meeting of Environment Ministers will be set after the review of COAG and Ministerial Forums reports to National Cabinet in September.

Environment and Communications References Committee
Answers to questions on notice
Agriculture, Water and the Environment Portfolio

Committee: Environment and Communications References Committee

Inquiry: Australia's faunal extinction crisis

Question No: 8

Hearing Date: 30 July 2020

Division/Agency: Department of Agriculture, Water and the Environment

Topic: Meaning of the Minister's comment 'under-the-radar litigation'

Hansard Page: 41

Question Date: 30 July 2020

Question Type: Spoken

Senator Hanson-Young asked:

CHAIR: I'm not sure if you're aware, but the minister made some mention that she wanted to do something about 'under-the-radar litigation'. Do you recall her using that phrase?

Mr Tregurtha: No, I don't recall. We've been reading a lot of media over the past month.

CHAIR: If you don't recall it, then it's a bit hard to ask you to explain what it means. Perhaps I could ask you to take that on notice.

Mr Tregurtha: Could you just repeat the question?

CHAIR: The minister mentioned she wanted to do something about 'under-the-radar litigation'.

My question is: what does that mean?

Mr Tregurtha: Certainly, we'll take that on notice.

Answer:

The Department has not located a record of the Minister using the phrase 'under-the-radar litigation'.