

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Additional Budget Estimates, February 2013

Program: Division or Agency:	5.2: EACD	Question No:	083
Topic:	Advice to the Minister on limits in actioning advice from the IESC		
Proof Hansard Page and Date or Written Question:	42 (12/2/13)		

Senator Waters asked:

Senator WATERS: Has the department advised the Minister about the limits placed on the minister in acting on the advice given by the committee?

Ms Nethercott-Watson: As far as I am concerned, I can only cover in terms of the independent expert scientific committee and the Office of Water Science. That would be a matter more directed to the regulator and the support mechanisms for the decision making around that.

Mr Parker: We can take that on notice.

Answer:

Yes. The Minister for Sustainability, Environment, Water, Population and Communities (the Minister) has been briefed by the department on the content of the amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) (as enacted 9 November 2012) which establish the Independent Expert Scientific Committee (the Committee), its function and how its advice is to be used. In particular, this briefing included the scope of the Committee and the Minister's obligations to seek the advice of the Committee on relevant project proposals and to take this advice into account when making an approval decision under the EPBC Act.

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Program: Division or Agency:	5.2: EACD	Question No:	084
Topic:	Whales – monitoring off James Price Point		
Proof Hansard Page and Date or Written Question:	121 (11/2/13)		

Senator Siewert asked:

Senator SIEWERT: ...I was asking more about looking at some of the monitoring that is going on up there and whether you have looked at the community monitoring that is going on there?

Dr Grimes: We may well have to take that on notice.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities (the department) reviews all scientific information provided and seeks input from species experts to assess impacts and the likely effectiveness of proposed mitigation measures before reporting to the Minister.

The Kimberley Community Whale Research Project recently released a report on their shore-based Humpback Whale surveys conducted in 2012 at James Price Point. This report has been provided to the department and will be considered, along with other information, as part of the strategic assessment process.

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Program: Division or Agency: 5.2 EACD **Question No:** 085

Topic: Bremer Canyon

Proof Hansard Page and Date 20

or Written Question: (12/2/13)

Senator Siewert asked:

Senator SIEWERT: The Bremer basin off the south coast of Western Australia. You did answer a question on notice about it for me, and I am asking very quickly for an update of any progress—if there have been any applications subsequent to that.

Mr Knudson: Unfortunately, I think we are going to have to take that question on notice.

Answer:

As noted in the response of 21 December 2012 to Senate Question on Notice number 2549, Arcadia Petroleum advised the Department of Sustainability, Environment, Water, Population and Communities (the department) on 26 November 2012 that it had cancelled its proposal to undertake a 3D seismic survey in the Bremer Basin and, if they wished to proceed with the survey in 2013, a new referral would be submitted.

To date, the department has not received any new referral from Arcadia Petroleum to undertake a seismic survey in the Bremer Basin.

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Program: Division or Agency:	5.2: EACD	Question No:	086
Topic:	Administrative delays for referrals, assessments and approvals in 2011-12		
Proof Hansard Page and Date or Written Question:	20 (12/2/13)		

Senator McKenzie asked:

Senator McKENZIE: I want to go to table A14 on page 289 of your annual report. There seems to be a lot of discussion at the moment around administrative delays. I want to ask whether there is any updates, which are still late in terms of all the things listed in that table. You will probably have to take that question on notice.

Mr Knudson: In terms of the specific table in the annual report, you are correct, we will have to take that on notice if you are looking for an update on each of those items.

Answer:

The figures in table A14 reflect decisions that were made outside the statutory timeframes during 2011/12. None of these decisions remain late as they had already been made at the time the report was produced.

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Program: Division or Agency: 5.2: EACD **Question No:** 087
Topic: Gladstone Independent Review – panel establishment
Proof Hansard Page and Date or Written Question: 24 (12/2/13)

Senator Waters asked:

Senator WATERS: ...When did the minister specifically ask for the panel to be commissioned?

...

Dr Dripps: We quite often prepare work that we anticipate the minister would be likely to require. I could check my records to see if I have a formal request from the minister and take that on notice.

...

Senator WATERS: ...I am keen to know precisely when that work was commissioned.

Answer:

The Australian Government accepted the World Heritage Committee's decision (36COM 7B.8) at the committee's meeting in June 2012. The minister gave clear verbal direction to the Department of Sustainability, Environment, Water, Population and Communities (the department) in June 2012 that he was committed to responding to the recommendations of the World Heritage Committee and directed the department to proceed with preparations for this work. He publicly responded to the decision in a media release on 29 June 2012, which stated:

Mr Burke said that the Australian and Queensland governments will work together to respond to the decisions.

"The World Heritage Committee decision requires detailed consideration. We will need to determine appropriate responses to the recommendations, keeping in mind that many of the recommendations reinforce processes that are already well underway," Mr Burke said.

The department started to scope a response to recommendation 9 immediately following the decision. Initial scoping tasks included liaison with Queensland Government officials, identifying and securing a budget for the work and commissioning relevant background studies. The department also started to consolidate existing information and past decisions in the Gladstone area.

On 10 December 2012, the minister agreed to the manner in which the review would be conducted and wrote to the Queensland Deputy Premier inviting the state's participation in the review process and input on the draft Terms of Reference and membership.

On 23 January 2013, the minister appointed the chair of the review. The terms of reference were agreed between the chair and minister and were finalised on 7 February 2013.

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Program: Division or Agency:	5.2: EACD	Question No:	088
Topic:	Gladstone Independent Review – independent data collection		
Proof Hansard Page and Date or Written Question:	24 (12/2/13)		

Senator Waters asked:

Senator WATERS: Can you take on notice to give me some more detail about the independent data collection that has happened at the behest of the department and now may happen under the panel's direction?

Ms Colreavy: Certainly.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities commissioned a range of projects to target key information gaps as part of the comprehensive strategic assessment of the Great Barrier Reef World Heritage Area and adjacent coastal zone. The most relevant projects to the Independent Review of the Port of Gladstone are outlined in **Table 1**.

The panel will also be able to obtain further independent scientific information to support the review if they determine it is required.

TABLE 1: Great Barrier Reef World Heritage Area and adjacent coastal zone research projects funded by the Department of Sustainability, Environment, Water, Population and Communities under the Sustainable Regional Development Program

Project title	Description	Timing for review panel	Supplier
<i>Ports and Shipping Project A: Improved Dredge Material Management for the Great Barrier Reef Region</i>	This project will provide improved information upon which to base decisions on dredge spoil management for the five major ports in the Great Barrier Reef World Heritage Area (Townsville, Cairns, Gladstone, Abbot Point and Hay Point). The project will undertake new modelling to identify potential dredge spoil disposal sites that best avoid and mitigate environmental impacts and will also undertake a cost-benefit analysis of land-based re-use options for dredge material. This will inform the strategic assessment's consideration of cumulative impacts of dredging and will assist with managing the impacts of any potential future port development.	May 2013	Great Barrier Reef Marine Park Authority (<i>working with Sinclair Knight Merz under a sub-contracting arrangement</i>)
<i>Ports and Shipping Project B: Identification of impacts and proposed management strategies associated with offshore ship anchorages in the Great Barrier Reef World Heritage Area</i>	This project will identify the environmental impacts of existing offshore anchoring for the five major Great Barrier Reef ports and the likely future impacts associated with increased shipping. An environmental and socio-economic cost benefit analysis will be undertaken to identify suitable management tools to avoid, mitigate or adaptively manage the impacts associated with anchorages. This will inform the development of an environmental management strategy for offshore ship anchorages for each of the five major ports.	May 2013	Great Barrier Reef Marine Park Authority (<i>with GHD under a sub-contracting arrangement</i>)
Economic Contribution of the Great Barrier Reef	This study will be an update to the report published by Access Economics in 2008. It will capture the economic contribution of the Great Barrier Reef for specified industries or activities undertaken in the World Heritage Area and its catchments (including tourism, recreation, commercial fishing and scientific research). The update will include additional analysis of commercial and non-commercial uses and will also include detailed regional-scale analysis to inform regional decision making.	March 2013	Great Barrier Reef Marine Park Authority (<i>with Deloitte Access Economics under a sub-contracting arrangement</i>)

Project title	Description	Timing for review panel	Supplier
International best practice environmental standards for ports	The project will involve a literature review and analysis of up to 12 case studies of international ports to determine best practice environmental standards for port planning/site selection, design and construction, operation, and monitoring and continuous improvement. It will also involve consultation with Australian port authorities to ensure standards identified are applicable to the Australian context.	April 2013	GHD
Defining the aesthetic values of the Great Barrier Reef World Heritage Area	The aesthetic values (criterion vii) of the Great Barrier Reef World Heritage Area are not well defined. This project will involve the development and application of a methodology for identifying and mapping the aesthetic values of the Great Barrier Reef World Heritage Area. It will also include a sensitivity and case-study analysis to examine the sensitivity of the identified aesthetic values to certain actions and impacts.	March 2013	Context Pty Ltd
Geological and geomorphological features of Outstanding Universal value in the Great Barrier Reef World Heritage Area	The geological and geomorphological features of Outstanding Universal Value in the Great Barrier Reef World Heritage Area (criterion viii) are not well defined. This project will involve the identification and where possible mapping of these values. It will also include a brief analysis of the sensitivity of the values to certain actions and impacts.	March 2013	Geoscience Australia
Survey of historical information on the Great Barrier Reef 1901-1981	This project involved a review of archival materials to identify sources of information which will help understand the baseline condition of the Great Barrier Reef and coastline from 1901 to the time of world heritage listing in 1981. The project also developed a timeline articulating the establishment and expansion of towns and major settlements along the coast and the development of key industries.	March 2013	Judith Nissen and Associates

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Program: Division or Agency:	5.2: EACD	Question No:	089
Topic:	Maules Creek Coal Mine – provision of briefing to the Minister		
Proof Hansard Page and Date or Written Question:	24-25 (12/2/13)		

Senator Birmingham asked:

Senator BIRMINGHAM: Following the release of that proposed decision and prior to the decision to extend the time line, did the department provide final recommendations or paperwork to the minister to make the final declaration of an 'approved with conditions' statement in relation to these two projects?

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Dr Dripps: I am trying to find out whether we did submit a brief in that period. I would like to take the question on notice because there is some uncertainty about whether we formally submitted a brief during that period.

Senator BIRMINGHAM: So the department fully prepared something but whether it was submitted has a level of uncertainty, Dr Dripps?

Dr Dripps: There is quite a lot of work involved in finalising these decisions. There were certainly very advanced drafts of a likely final decision, but I do not believe that they were finalised. I would like to check that detail please.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities provided briefing material concerning this project to the Minister for Sustainability, Environment, Water, Population and Communities during this period, however final decision briefs were not provided to the Minister for decision until 11 February 2013.

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Program: Division or Agency:	5.2: EACD	Question No:	090
Topic:	Maules Creek Coal Mine – extension of decision timeframe		
Proof Hansard Page and Date or Written Question:	25 (12/2/13)		

Senator Birmingham asked:

Senator BIRMINGHAM: ...When was the decision to extend until 7 February undertaken?

Mr Tregurtha: To get an exact date I would have to take that on notice.

...

Senator BIRMINGHAM: ...Was the minister consulted about the extension to 7 February?

Dr Dripps: We would have to check our records. It is usual practice to consult with the minister on such decisions.

Senator BIRMINGHAM: If you could check your records and check what the response from the minister's office was, that would be appreciated.

Answer:

The decision to extend until 7 February 2013 was undertaken on 18 January 2013.

The Department of Sustainability, Environment, Water, Population and Communities consulted with the Minister's office in relation to the decision to extend until 7 February 2013.

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Program: Division or Agency: 5.2: EACD **Question No:** 091

Topic: Maules Creek Coal Mine – additional or new information provided for the Minister’s decision

Proof Hansard Page and Date 26

or Written Question: (12/2/13)

Senator Birmingham asked:

Senator BIRMINGHAM: ...What additional information was forthcoming subsequent to the decision being made to extend to 7 February and prior to the decision being made to extend the deadline to 30 April? What additional or new information came to light that caused that decision to be taken, and when was that information provided to the department?

Dr Dripps: I think we will have to take that question on notice. As we have indicated, we have not got the precise date of the extension to 7 February at hand. I would like to be able to line up the documents and give you a precise answer rather than an answer that turns out not to have all of the relevant information in it.

Senator BIRMINGHAM: Okay. Are you able to detail what changes to approvals documents have been made compared to the final drafts that the department would have prepared for approvals prior to 7 February?

Dr Dripps: I would have to take that question on notice.

Senator BIRMINGHAM: Okay. What changes have been made to the documents in the last week?

Dr Dripps: I do not have the precise information on the changes made to the documents to hand, so I would like to take that question on notice?

Answer:

Following the decision being made to extend the deadline to 7 February (on 18 January 2013) and prior to the decision being made to extend the deadline to 30 April (on 6 February 2013) information was provided to the Department of Sustainability, Environment, Water, Population and Communities (the department) by the proponent Whitehaven Coal on 25 January 2013 in relation to their comments on the proposed decision. Additional information was also provided to the department by two community groups on 30 January 2013 in relation to impacts on Leard State Forest, and in relation to the offset properties proposed by the proponent in the environment assessment.

The finalisation of approval documents is a process that occurs prior to the final approval decision being made. The final decision can be viewed on the department’s website at:
http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?limit=999999&name=current_referrals&text_search=2010%2F5566.

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Program: Division or Agency:	5.2: EACD	Question No:	092
Topic:	Maules Creek Coal Mine – guidelines for the project plan		
Proof Hansard Page and Date or Written Question:	27 (12/2/13)		

Senator Heffernan asked:

Senator HEFFERNAN: Surely there are hurdles that have to be jumped that the minister would have in his mind. Can we have the hurdles that have to be jumped in this period to 11 May? The bloke next to you is shaking his head.

Dr Dripps: We can take that question on notice and see what advice we can give you.

Answer:

The conditions required to be met by the proponent in relation to the Maules Creek Coal Mine approval, including in the period until 11 May 2013, are set out in the Maules Creek Coal Mine approval provided on the Department of Sustainability, Environment, Water, Population and Communities' website at: http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?limit=999999&name=current_referrals&text_search=2010%2F5566.

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Program: Division or Agency:	5.2: EACD	Question No:	093
Topic:	Maules Creek Coal Mine – legal advice sought by the Minister on leaked documents		
Proof Hansard Page and Date or Written Question:	27 (12/2/13)		

Senator Birmingham asked:

Senator BIRMINGHAM: Did the minister, or has the minister, sought any advice regarding the impact of the leaked documents?

Dr Dripps: Not from me.

Mr Knudson: No.

Senator BIRMINGHAM: Dr Grimes, are we aware if the minister has sought any legal advice or otherwise in relation to the leaked documents?

Dr Grimes: There has not been a request of me, but I do not know whether the officers have had any requests for advice on handling of documents under the EPBC Act. We may have been asked for advice in that area; again, I am not sure. I am looking at the officials concerned, who are all shaking their—

Dr Dripps: We will take the question on notice.

Dr Grimes: It is best to take it on notice.

Senator BIRMINGHAM: Dr Dripps gave the answer before that no, no advice had been sought to her knowledge.

Dr Grimes: It is best for us to take that on notice, and we can give you a complete answer.

Answer:

The Minister for Sustainability, Environment, Water, Population and Communities (the Minister) did not seek any advice (including legal advice) from the Department of Sustainability, Environment, Water, Population and Communities regarding the impact of the leaked documents regarding the Maules Creek Coal Mine.

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Program: Division or Agency:	5.2: EACD	Question No:	094
Topic:	Sea Dumping Act – application for dumping of vessels		
Proof Hansard Page and Date or Written Question:	27 (12/2/13)		

Senator Birmingham asked:

Senator BIRMINGHAM: Is formal application made by Customs or the Department of Immigration and Citizenship, or whoever?

Ms Lea: I believe it is by AMSA, but I would like to check who the actual proponent is because I do not have the detail in front of me. That is to my understanding, but I would like to take that on notice to check it.

Answer:

The Australian Fisheries Management Authority and Customs Border Protection Command submitted a joint application to dispose of apprehended vessels at sea under the *Environment Protection (Sea Dumping) Act 1981*. The Department of Sustainability, Environment, Water, Population and Communities is currently assessing that application.

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Program: Division or Agency: 5.2: EACD **Question No:** 095
Topic: Sea Dumping Act – provisions to destroy illegal entry vessels
Proof Hansard Page and Date or Written Question: 28-29 (12/2/13)

Senator Birmingham asked:

Senator BIRMINGHAM: Okay. Provisions exist under the act for emergency-type situations; are there any provisions at present that would allow, essentially, a more regular process of destroying illegal entry vessels and sinking them?

Ms Lea: That is my understanding of the purpose of the current sea-dumping application.

Senator BIRMINGHAM: But there are no existing provisions that would facilitate that, except in emergency circumstances?

Ms Lea: Correct.

Senator BIRMINGHAM: Is it correct that such vessels have been sunk in the waters off Christmas Island?

Ms Lea: I would have to get that information about the number that have been sunk on notice. I know that those statistics are kept and that details of each instance are kept, but I have not got them to hand today.

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Senator BIRMINGHAM: Does the department actually have any idea as to how extensive these activities have been to date? We know that there are record arrivals of boats to Christmas Island; does that mean there have been record levels of sinking of such vessels off of Christmas Island?

Ms Lea: In response to your previous question, I undertook to get data on the number of those instances and the number of vessels that had been sunk in those circumstances. I have agreed to take that on notice, but your question directly relates back to that.

Answer:

Under the *Environment Protection (Sea Dumping) Act 1981* (the Sea Dumping Act), there are provisions to apply for permits to allow for the deliberate disposal at sea of wastes, including vessels, and provisions for exempting requirements for permits where disposal at sea is necessary to secure the safety of human life or a vessel, or to avert a threat to human life or a vessel. If the application submitted by the Australian Fisheries Management Authority and Border Protection Command for a permit under the Sea Dumping Act is approved, it would provide a regulatory framework for the systematic disposal of apprehended vessels at sea at specified locations.

The Department of Sustainability, Environment, Water, Population and Communities (the department) has received advice from Customs Border Protection Command that suspected irregular entry vessels have been sunk in the waters off Christmas Island, with 66 sunk in 2011/12 and 102 sunk in 2012/13 (to 7 March 2013).

The department has received advice from the Australian Fisheries Management Authority and Customs Border Protection Command that the total number of foreign fishing vessels and suspected irregular entry vessels sunk is 106 in 2011/12 and 209 in 2012/13 (to 5-7 March 2013).

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Program: Division or Agency:	5.2: EACD	Question No:	096
Topic:	Sea Dumping Act – waste deposited from sunk illegal entry vessels		
Proof Hansard Page and Date or Written Question:	28 (12/2/13)		

Senator Birmingham asked:

Senator BIRMINGHAM: Is the government aware of claims that there has been a significant level of waste and toxic waste deposited as a result of the sinking of these vessels?

Ms Lea: I am not aware of that, but I could take that question on notice to check if we have been notified of any. We do not administer those aspects of the act. I have had questions on notice on that topic previously, so I would like to check back on those and provide that on notice.

Senator BIRMINGHAM: Is this application being made and initiated purely by the proponent, or has the Department of Sustainability and Environment said to those authorities undertaking the sinking of these vessels: 'We think there may be a problem here under the sea dumping provisions of the act, and you'd better get some approvals for this.'?

Ms Lea: As far as I am aware, there is ongoing dialogue between agencies about issues that arise and the best way of dealing with them. AMSA's response is a result of their recognition of the issue. I would like to check that that is the case. There are probably a range of consultative mechanisms in place.

Senator BIRMINGHAM: Is the department aware of suggestions that sinking has occurred and deposited waste in areas that are known to be spawning grounds for southern bluefin tuna? Would that be a consideration in such approvals processes?

Ms Lea: If there were impacts on matters of national environmental significance, it would be an action that is referable under the EPBC Act. If it were an issue involving a breach of the Sea Dumping Act, the department would be made aware of the circumstances of it. Your previous question asked if we were aware of that, and I took it on notice to find out for you.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities (the department) is aware of claims that toxic waste being dumped as a result of the sinking of vessels as cited in the Geraldton Guardian of 1 February 2013.

The department has received an application to dispose of apprehended vessels at sea under the *Environment Protection (Sea Dumping) Act 1981* from the Australian Fisheries Management Authority and Customs Border Protection Command. This application is the result of ongoing consultation between the department, the Australian Fisheries Management Authority and Customs Border Protection Command.

The department is aware that the sinking of vessels has occurred within an area which has been identified as the spawning grounds for the Southern Bluefin Tuna.

The assessment of the permit application will consider suitability for ocean disposal, potential disposal sites for vessels that can sustain a short tow, and measures to prevent pollution of the sea. Any potential impacts of the proposal, including impacts on any fisheries in the area, will be considered as part of the assessment of the application.

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Program: Division or Agency: 5.2: EACD **Question No:** 097
Topic: Sea Dumping Act – potential breaches
Proof Hansard Page and Date or Written Question: 29 (12/2/13)

Senator Birmingham asked:

Senator BIRMINGHAM: What actions has this department undertaken to look into such potential breaches in the waters off Christmas Island?

Dr Dripps: As Ms Lea has advised, she does not have the precise information on these matters at hand, and it would be our strong preference to take those questions on notice. We do not have the answers here.

Senator BIRMINGHAM: Are you aware of any steps the department has undertaken to make such investigations?

Dr Dripps: We are aware of the fact that the activity has now been referred for assessment under the Sea Dumping Act which means that there will be a comprehensive analysis of potential impacts ultimately resulting—one would imagine—in some kind of conditional approval.

Senator BIRMINGHAM: The arrival of illegal entry vessels is not exactly something that has gone unreported in Australia. Surely, as the department responsible for these sea dumping provisions, at some stage you would have thought to make enquiries about what is going on in this regard. This department has officials that are based on Christmas Island as well. What steps, if any, has the department made?

Dr Dripps: As we have advised, we will take the question on notice and give you advice in terms of the steps that have been taken by the department.

Answer:

The *Environment Protection (Sea Dumping) Act 1981* (the Sea Dumping Act) regulates the loading and dumping of waste at sea and permits are required for ocean disposal activities, which includes the disposal of vessels at sea. The Sea Dumping Act also includes provisions exempting requirements for permits where disposal at sea is necessary to secure the safety of human life or a vessel or to avert a threat to human life or a vessel. In these circumstances, sea dumping permits are not required. Incident reports are provided by Customs Border Protection Command to the Department of Sustainability, Environment, Water, Population and Communities (the department) for vessels disposed in these circumstances.

The department is not currently investigating any potential breaches under the Sea Dumping Act for the disposal of apprehended vessels.

The department is currently assessing an application to dispose of apprehended vessels at sea under the Sea Dumping Act submitted by the Australian Fisheries Management Authority and Customs Border Protection Command.

This application is the result of ongoing consultation between the department, the Australian Fisheries Management Authority and Customs Border Protection Command.

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Program: Division or Agency:	5.2: EACD	Question No:	098
Topic:	Job losses in State environment departments		
Proof Hansard Page and Date or Written Question:	31-32 (12/2/13)		

Senator Cameron asked:

CHAIR: On notice, can you provide the committee an outline of details of job losses in the various state environmental departments?

I know you are going to say it is not your area, but surely if we, as a government, are proposing to refer powers to the states then we should be confident the states have the capacity, the ability and the quality of personnel to actually carry out that function. So I would see this as a statement of due diligence by your department to be able to advise this committee and government as to whether the states have the quality of personnel and the number of personnel to actually carry out the functions that are being proposed by the Business Council.

Dr Grimes: We could certainly take the matters on notice and see what we might be able to provide.

Answer:

In April 2012, the Council of Australian Governments committed to maintaining high environmental standards while reducing duplication of assessment and approval processes. The mechanism for achieving this was the negotiation of approval bilateral agreements under the *Environment Protection and Biodiversity Conservation Act 1999*.

However, as discussions with states and territories progressed, it became apparent that there would be a number of significant challenges to accreditation. The Prime Minister announced in December 2012 that the Commonwealth would not be progressing negotiation of approval bilateral agreements with state and territory governments.

State and territory governments would be in the best position to answer any question in relation to the quality and number of personnel engaged in environmental assessments, noting that the Department of Sustainability, Environment, Water, Population and Communities has no specific information on state and territory resourcing for conducting environmental assessments.

The aim to improve the efficiency of national environmental law while maintaining high environmental standards would require state and territory governments to meet performance standards of any agreement in order to maintain accreditation. Determining the approach to resourcing an accredited state system would be, however a matter for state and territory governments.

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Program: Division or Agency: 5.2: EACD **Question No:** 099
Topic: Duplication in Commonwealth and State assessment processes
Proof Hansard Page and Date or Written Question: 32 (12/2/13)

Senator Cameron asked:

CHAIR: ...If the powers go back to the states, even on assessment, then there is a duplication because your department would have to make a further assessment of the assessment to ensure that has been done to the satisfaction of the minister?

...

Dr Dripps: I was just going to suggest, Chair, that we could take on notice providing you with the detail for a number of different jurisdictions of how we currently undertake that quality assurance process. So, as Dr Grimes has indicated, we endeavour not to duplicate what has been done by the states but we do have a very close engagement with them while the work is being undertaken and we do look at key documents at various stages in the process—for example, determining in a joint manner the terms of reference for an environmental impact assessment or the adequacy of documents for publication. So we are happy to take that on notice.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities (the department) works closely with the state/territory during assessments conducted under a bilateral assessment agreement. The department currently has bilateral assessment agreements with all states and territories except New South Wales. The agreement with New South Wales expired on 18 January 2012. Current bilateral agreements can be viewed on the department's website at:
<http://www.environment.gov.au/epbc/assessments/bilateral/index.html>.

The bilateral agreements provide for one assessment process for one project. Under the bilateral agreement, a single assessment may address likely impacts on matters of national environmental significance (protected under the *Environment Protection and Biodiversity Conservation Act 1999*) and matters of state significance (protected under state/territory law).

The bilateral agreements also provide for detailed administrative arrangements between the Commonwealth and the states/territories. Those arrangements ensure that the bilateral agreements are administered effectively and efficiently. The department has administrative arrangements with Queensland, the Australian Capital Territory, Tasmania and the Northern Territory. The department is working to develop administrative arrangements with Western Australia and Victoria.

Under those arrangements, the department and state/territory will follow a set of procedures for the assessment process between the jurisdictions. To illustrate how these procedures operate with the Australian Capital Territory (ACT), the administrative procedures include details of when liaison will occur between the ACT Government and the department. For each assessment, the ACT officer will liaise with the departmental officer on a timetable for assessment and on progress in meeting that timetable. The departmental officer will also advise the ACT officer on how matters of national environmental significance and relevant impacts are best identified and dealt with in scoping documents and assessment reports. The administrative arrangements provide for information sharing between ACT and departmental officers, and to ensure consistent recommendations on conditions relating to the same project, to protect both matters of national environmental significance and matters of state/territory significance.

Administrative arrangements are updated and amended as required. For example, in 2012, the administrative arrangements under the bilateral agreement between the Australian and Queensland governments were amended to include:

- Defined milestones and timeframes for providing documents and feedback for each stage of the assessment process.
- Requirements on inclusions to the Proponent Service Delivery Charter that will set the main assessment requirements at the start of each project.
- Processes to cover situations where there is a lack of agreement on the requirements or adequacy of information to enable a proper assessment.

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Program: Division or Agency: 5.2: EACD **Question No:** 100

Topic: Removal of hammerhead crane,
Garden Island – consultation process

Proof Hansard Page and Date Written

or Written Question:

Senator Macdonald asked:

Public consultation on the removal of the Hammerhead Crane from the Garden Island Heritage precinct has commenced.

Will the Commonwealth seek advice from NSW Environment and Heritage as part of its consultation process?

Answer:

Public consultation on the draft assessment documentation for this proposal was undertaken between 21 January 2013 and 18 February 2013. The public consultation process is managed by the proponent who is responsible for receiving and responding to comments.

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Program: Division or Agency: 5.2: EACD **Question No:** 101

Topic: Environmental asset of national environmental significance

Proof Hansard Page and Date Written

or Written Question:

Senator McKenzie asked:

Define an environmental asset that is of national significance?

Answer:

There are seven matters of national environmental significance protected under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) which are environmental assets. The matters protected are:

- World heritage properties.
- National heritage places.
- Wetlands of international importance.
- Listed threatened species and ecological communities.
- Migratory species.
- Commonwealth marine areas.
- The Great Barrier Reef Marine Park.

The Great Barrier Reef Marine Park is an example of an environmental asset of national significance. It is a World and National Heritage Listed area and is one of the most diverse and remarkable ecosystems in the world, supporting an outstanding array of plants and animals.

The EPBC Act recognises the protection of the environment from nuclear actions as a matter of national environmental significance. Although a nuclear action is a protected matter under the EPBC Act it is not an environmental asset.

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Program: Division or Agency: 5.2: EACD **Question No:** 102

Topic: Implementation of the Government's response to the Hawke review of the EPBC Act

Proof Hansard Page and Date Written

or Written Question:

Senator McKenzie asked:

Please provide an update on implementation of the Government's response to the Hawke report into the EPBC Act?

Answer:

There are a range of initiatives underway that will assist Commonwealth and state and territory governments in implementing environmental regulation reform that enhances efficiency and increases certainty for business, while maintaining high environmental standards. These include:

- Increasing the use of strategic assessments to improve certainty for business by reducing the need for project by project assessments.
- Providing upfront guidance on the role of offsets in environmental impact assessments, creating more certainty and transparency for proponents.
- Improving the listing of species for protection, with the aim of producing a single National List of threatened species and ecological communities to reduce inconsistencies between jurisdictions.
- Improving existing assessment bilateral agreements to improve processes and reduce duplication.
- Streamlining Commonwealth practices to assist proponents in meeting regulatory requirements.

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Program: Division or Agency: 5.2: EACD **Question No:** 103
Topic: Maules Creek Coal Mine - offsets
Proof Hansard Page and Date Written
or Written Question:

Senator Rhiannon asked:

With regards to the Tarrawonga mining extension proposal the Minister recently approved: In Whitehaven Coal's Tarrawonga Mine's Fauna Assessment (Appendix E), the author/environmental consultant engaged by the mine states on page 208 of that document: "The cumulative impacts on habitat and fauna without consideration of the proposed mitigation outcomes would likely result in adverse changes to the resident fauna populations, including some threatened fauna species"; and "There is ... unlikely to be a net impact on any threatened fauna species in the region over the medium to long-term when taking into consideration the measures proposed to mitigate and offset impacts"

1. How do these statements in the Fauna Assessment reconcile with the same consultant's statements in a private email that the offset area is "degraded agricultural land", recognising that consultant also wrote the offset program for the extension proposal?
2. Given the consultant's private description of the offset area as "degraded agricultural land", how do each of the "mitigation and offset" measures meet the Act's Policy and Guidelines that insist offsets must:
 - a. "deliver an overall conservation outcomes that improves or maintains" that which the EPBC Act is protecting?;
 - b. to "effectively account for and manage the risks of the offset not succeeding?",
 - c. be "scientifically robust?"
3. The EPBC Act Offsets Policy Offset Principles insist that government decision-making in assessing the suitability of an offset will be transparent. Is each of the proposed mitigation measures and offset proposals for each of the Boggabri, the Maules Creek and the Tarrawonga Coal Mine proposals approved on 11 February "scientifically robust", as they must be under the Act and Principles?
 - a. Please provide the above consultants' evidence and the Government's own evidence, that each of the mitigation and offset measures for all proposals are "informed by scientifically robust information and incorporate the precautionary principle in the absence of scientific certainty?"

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) is not aware of the private email referred to in this question, or any statements therein.
2. Tarrawonga Coal Mine Extension proposal (EPBC 2011/5923) was approved with conditions under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) on 11 March 2013. The conditions of approval for this project include requirements for biodiversity impact mitigation and offset measures which are in accordance with the EPBC Act Environmental Offsets Policy.
3. Maules Creek Coal Mine (EPBC 2010/5566) and Boggabri Coal Mine expansion (2009/5256) were approved with conditions under the EPBC Act on 11 February 2013, while the Tarrawonga Coal Mine was approved with conditions under the EPBC Act on 11 March 2013. The approval notices and conditions for each of these projects are available on the department's website at: <http://www.environment.gov.au/epbc/index.html>.

For each of these projects, the onus is on the proponent to ensure that the information provided in the Environmental Assessment Report in relation to mitigation measures and biodiversity offsets is scientifically robust.

The department worked with the proponents for each proposal to ensure consistency in accordance with the EPBC Act Environmental Offsets Policy (the offsets policy) and evaluated the proposed offsets using the offsets assessment guide. The offsets policy outlines the Australian Government's approach to the use of environmental offsets under the EPBC Act and the offsets assessment guide gives effect to the requirements of the offsets policy using a balance sheet approach to measure impacts and offsets. The offsets assessment guide has been scientifically peer-reviewed and assists in ensuring the department's assessment of the information provided by the proponents is conducted appropriately.

- a. The Environmental Assessment Report for each of these proposals (available on the New South Wales Department of Planning and Infrastructure website) provides relevant scientific information concerning the mitigation and offset measures.

Further, the Minister for Sustainability, Environment, Water, Population and Communities has taken a precautionary approach to the offsets and imposed a requirement that the companies must submit, for approval, a scientifically independent verification of the condition and extent of the proposed biodiversity offsets and, if the offsets do not meet the requirements as set out in the conditions, the companies must secure additional offsets until requirements are met.

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Program: Division or Agency: 5.2: EACD **Question No:** 104

Topic: Environment assessments staffing and work program

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. Do you have any internal process to ensure adequate resources are provided to support senior officers and the Minister in assessments and approvals of projects under the EPBC Act? If so, please step me through it?

I've come up with my own proxy, can you tell me over the last three years at six monthly intervals (up until Dec 2012):

2. How many full time equivalent staff there have been in EPBC assessments?
3. At the same time, how many projects have been undergoing assessment prior to a CA, or were within the project assessment process (ie once determined to be a CA) in total across all the assessment areas?
4. How many staff have been working on the EPBC reform process (including staff seconded to PMC)?
5. Which strategic assessments have been on foot? How many staff have been working on each strategic assessment?
6. How many staff have been working on other EPBC responsibilities – please step through what each of these are, and the number of staff for each – that is, threatened species listings, key threatening processes, threat abatement plans etc?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities has a variety of databases to record projects, due dates and forecast timeframes. These databases also include the Officer, Section and Branch details. The reports from these databases are utilised by the Division to manage staff and workload allocation.

2-3.

	Jun-10	Dec-10	Jun-11	Dec-11	Jun-12	Dec-12
Staff numbers	122	134	135	117	122	129
EPBC referrals	219	214	218	207	210	246
EPBC assessments	73	71	78	74	54	68

4.

	Jun-10	Dec-10	Jun-11	Dec-11	Jun-12	Dec-12
Staff numbers	7	6	11	16	16	49

5. There are currently 15 strategic assessments in all phases from inception to completion with an average of 2-3 persons per assessment, depending on timing and complexity. One staff member has worked on strategic assessments for fisheries in June 2010, June 2012 and in December 2012.

6.

Wildlife Branch	Section Functions	Staff Numbers (as of Dec 2012)
<i>Species Listing</i>	Responsible for improving the conservation of Australia's native species by: implementing the provisions of the EPBC Act to list the highest priority species and key threatening processes; preparing conservation advice to assist stakeholders conserve threatened species, and; assisting other sections to implement the department's statutory and policy responsibilities, including ecological community listings and recovery and threat abatement plans and actions.	10.6
<i>Ecological Communities</i>	Improves conservation of Australia's biodiversity by defining national ecological communities and determining whether they are eligible for listing as threatened under the EPBC Act. The section develops listing and conservation advices on behalf of the Threatened Species Scientific Committee (TSSC).	11.1
<i>International Wildlife Trade</i>	Undertakes assessment of applications, and issues permits, to import and export wildlife and wildlife products, in addition to the development of live import policies and management of the live import list provisions under Part 13A of the EPBC Act, and part of Australia's Management Authority for the Convention on International Trade In Endangered Species of Wild Fauna and Flora (CITES).	8.7
<i>Wildlife Trade Assessments</i>	Regulating, evaluation and permitting function in administering Part 13A of the EPBC Act. The Section regulates the international movement of live specimens and reproductive material.	7.7
<i>Wildlife Trade Regulation</i>	Undertakes assessment of applications and issues permits, to import and export wildlife and wildlife products, in addition to the development of live import policies and management of the live import list provisions under Part 13A of the EPBC Act. Also part of Australia's Management Authority for CITES.	9

Species Information	Manages and develops the Species Profile and Threats (SPRAT) database of species profiles; and develops policy, mainly in the form of referral and survey guidelines.	7.3
Recovery, Planning & Implementation	Lead development of national strategic recovery planning and policy initiatives.	9.8
Marine Branch	Section Functions	Staff Numbers (as of Dec 2012)
	(Wildlife trade assessments (fisheries), Threat Abatement Plans, Recovery Plans, Wildlife Conservation Plans (development, revision and implementation), permits, regulation, policy)	8.6

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Program: Division or Agency: 5.2: EACD **Question No:** 105

Topic: Mobilisation of sediment during dredging

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

Does the Department consider that one sediment sample recording of 21.11 µgSn/kg of tributyltin is cause for concern and poses a potential hazard if this sediment is mobilised during dredging?

Answer:

The assessment process for determining the suitability of sediments for ocean disposal is undertaken on a case by case basis, and involves a range of factors including adequate sampling for contaminants.

The tributyltin (TBT) concentrations at Abbott Point, Terminals 0, 2 and 3 ranged from <0.5 to 21.1 µgSn/kg. Two of the 136 samples analysed for TBT had concentrations greater than the screening level of 9 µgSn/kg, set under the National Assessment Guidelines for Dredging (2009), and eight samples recorded a TBT level above the detection level of 0.5 µgSn/kg.

Further analysis was undertaken to determine the upper 95 per cent confidence level of the mean to determine compliance with the 9 µgSn/kg screening level. In the case referred to above, the upper 95 per cent confidence level of the mean for TBT was determined to be 0.8 µgSn/kg, which is less than 10 per cent of the screening level. On that basis, the sediment is considered unlikely to cause adverse impacts on water quality and is therefore suitable for ocean disposal.

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Program: Division or Agency: 5.2: EACD **Question No:** 106
Topic: Abbot Point expansion
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

In approving the Abbot Point expansion the Government has wilfully ignored the World Heritage Committee's specific request for no port expansions where these expansions impact the reef. Can any other conclusion be drawn?

Answer:

The approval of Terminal 3 at the Port of Abbot Point, which began operation in 1984 and has a current capacity of 50 million tonnes per year, was made after due consideration of the World Heritage Committee's decision earlier this year recommending "the State Party to not permit any new port development or associated infrastructure outside of the existing and long-established major port areas...".

The approval conditions include a requirement for a Heritage Management Plan, to be approved by the Minister for Sustainability, Environment, Water, Population and Communities. This plan must maximise the ongoing protection and long term conservation of the Outstanding Universal Value of the Great Barrier Reef World Heritage Property. This is consistent with the World Heritage Committee's recommendation "that development is not permitted if it would impact individually or cumulatively on the Outstanding Universal Value of the property".

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Program: Division or Agency: 5.2: EACD **Question No:** 107

Topic: Queensland coastal strategic assessment

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

Please update me on the progress of the coastal Strategic Assessment, being undertaken by the Queensland Government. Please also advise what baseline or point in time is being used to assess Queensland laws given recent and regular changes to Queensland laws, most relevantly the repeal of the Coastal State Planning Policy.

Answer:

The Queensland Government is preparing a draft Strategic Assessment Report and a Program Report that will be released for public comment. It is expected that final Strategic Assessment and Program Reports will be provided to the Minister for Sustainability, Environment, Water, Population and Communities for decision in the second-half of this year.

The Department of Sustainability, Environment, Water, Population and Communities is aware that the Queensland Government introduced a number of significant planning reforms over 2012, with further reforms expected in 2013. As part of the Strategic Assessment, the Queensland Government will be required to demonstrate how their coastal planning systems will protect matters of national environmental significance over the period of the program (25 years).

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Program: Division or Agency: 5.2: EACD **Question No:** 108
Topic: Curtis Island
Proof Hansard Page and Date or Written Question: Written

Senator Waters asked:

Please update me on the status of the fourth LNG plant proposal on Curtis Island.

Answer:

- Arrow Energy's proposal for a fourth LNG Plant on Curtis Island is currently undergoing assessment by Environmental Impact Statement (EIS) under the Bilateral Agreement between the Commonwealth and the State of Queensland.
- The public have been given the opportunity to comment on the draft EIS for the proposal.
- The proponent has prepared a Supplementary Report to the EIS addressing comments received on the draft EIS. The Supplementary Report and the draft EIS are available on the proponent's website.
- The Supplementary Report to the EIS is currently being reviewed by the Department of Sustainability, Environment, Water, Population and Communities.

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Program: Division or Agency: 5.2: EACD **Question No:** 109
Topic: Bowen CSG project (Arrow Energy)
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

You mentioned in estimates that the Bowen CSG project's EIS was deficient and that the Department had requested "some additional revision". Please provide details. Additionally, is this information lacking which would have been required under the Queensland-Commonwealth assessment bilateral agreement? Does the department consider the lacking information to be a breach of the terms of that agreement?

Answer:

- The Bowen Gas Project is being assessed by Environmental Impact Statement (EIS) under the Bilateral Agreement between the Commonwealth and the State of Queensland (the bilateral agreement).
- Under the bilateral agreement arrangements a draft EIS is provided to the Department of Sustainability, Environment, Water, Population and Communities (the department) for comment on the adequacy of its content against the EIS terms of reference, prior to the release of the draft EIS for public comment.
- The department requested that additional information be included on impacts to matters of national environmental significance, in particular to listed threatened species and communities. This information has been provided and will be included in the draft EIS which will be released for public comment.
- There has been no breach of the terms of the Bilateral Agreement between the Commonwealth and the State of Queensland.

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Program: Division or Agency: 5.2: EACD **Question No:** 110

Topic: Provision of briefing to the Minister -
release of polluted mine water in
Queensland

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. Has the Department briefed or advised the Minister on whether the Qld Govt allowing mining companies to release their polluted mine water (held in pits post-Qld floods) may require EPBC Act approval and/or should be called in?
2. If not, has the Department considered or investigated this issue?

Answer:

1. This matter is currently being reviewed by the Department of Sustainability, Environment, Water, Population and Communities (the department).
2. The department has been monitoring the situation in the Fitzroy Basin. The actions undertaken by the department have included:
 - verifying compliance with existing approvals held by Fitzroy Basin mines;
 - identifying any existing mines that have never been referred under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act);
 - determining whether the actions of older existing mines are subject to the exemption provisions under the EPBC Act; and
 - identifying proposed new Fitzroy Basin mining projects that might be subject to future assessment.

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Program: Division or Agency: 5.2: EACD **Question No:** 112
Topic: Maules Creek Coal Mine
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

1. You said in estimates that the Minister wanted to ensure that any offsets imposed federally had equivalent protection to conservation covenants. Can you confirm that conservation covenants are not protected from mining, mineral exploration, coal seam gas or petroleum exploration?
2. Media reports (<http://www.smh.com.au/environment/conservation/burke-intended-to-approve-coal-mine-before-hoax-20130208-2e3rd.html#ixzz2KcJysrqon>) Saturday quote the Federal department saying that the delay was because the Dept was seeking "clarification on potential impacts to matters of national environmental significance."
 - a. What were you seeking to clarify?
 - b. What extra info did you need?
 - c. How was that sorted out by approval time mid Monday?
 - d. Who was this information obtained from and what did it contain?
 - e. How did this information affect the decision?
3. How did the conditional approval change between the copy provided to the NSW Government on the 21st December and the copy approved yesterday?
 - a. What are the full list of differences between the two?
4. The Minister said in media reports (<http://www.theaustralian.com.au/news/nation/burke-locks-state-out-of-coal-talks/story-e6frg6nf-1226575740087>) yesterday "Unfortunately the decision of the NSW government to leak commercially sensitive information has caused me to have to bring these decisions forward".
 - a. How was the leaking of information by the NSW Government a relevant consideration in the Ministers decision?
 - b. How did leaking of information by another party affect his consideration of the merits of the decision?
5. When will the department start investigating the allegation that Whitehaven coal has provided false and misleading information to the Department regarding the offsets package provided in their EPBC approval application for the Maules Creek Coal Mine in Leard State Forest?

6. Given the allegations relate to the offsets package, did the Department advise the Minister on his options to further delay his decision whether or not to approve until the issues regarding offsets were properly resolved?
7. Given these claims regarding Maules Creek, please advise:
 - a. How much time (ie how many officer hours) were spent by the department assessing the EIA for this project?
 - b. What expert advice was sought?
 - c. What ground truthing of the proponent's claims was undertaken by the department (or its agents – ie consultants)?
8. What social and economic impact assessment did the department undertake prior to the Minister approving this project?
9. Can the department advise what measures are being taken to avoid this situation occurring again, both in respect of Federal EPBC determinations and flawed state planning approvals being passed through to the Federal Government?

Answer:

1. A conservation covenant is a promise contained in a deed to land or real-estate. Conservation covenants are primarily mechanisms under State and Territory jurisdictional legislation. What a covenant protects or doesn't protect is dependent on both the individual covenant and the legislative framework of the specific jurisdiction.
- 2a. The Department of Sustainability, Environment, Water, Population and Communities (the department) was seeking to clarify information, in relation to matters of national environmental significance, in order to finalise the recommended conditions of approval on: the wildlife corridor required under the proposed conditions; and the maximum disturbance limits of the mine operation.
- 2b. The department was seeking more detailed information on the items in 2a.
- 2c. The department presented a precautionary approach with recommended amendments to the proposed conditions for approval in relation to the proposed wildlife corridor and the maximum disturbance limits (refer conditions 4, 5 and 6b of the final approval).
- 2d-e. Following the decision to extend the date for decision (to 30 April 2013) on 6 February 2013, the department met with the proponent and discussed the additional information requirements.
3. An approval under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) is not considered final until the Minister has made their decision. The final decision can be viewed on the department's website at:
http://www.environment.gov.au/cgi-bin/epbc/epbc_ap.pl?limit=999999&name=current_referrals&text_search=2010%2F5566.
- 4a. In making a decision under the EPBC Act the Minister for Sustainability, Environment, Water, Population and Communities (the Minister) may take into account social and economic information. In this instance, the Minister took into account the potential economic and social impacts of the commercially sensitive information made public by the New South Wales Government.

- 4b. The leaking of the information by another party did not affect the Minister's consideration of the environmental impacts and merits of the decision.
5. The department is currently investigating the claims that Whitehaven Coal provided false and misleading information to the department relating to the Maules Creek Coal Mine approval application.
6. Under the approval for the Maules Creek Coal Mine Condition 8 requires the person taking the action to register a legally binding conservation covenant over offset areas of no less than:
- 9,334 hectares of an equivalent or better quality of habitat for the regent honeyeater, swift parrot and greater long-eared bat; and
 - 5,532 hectares of an equivalent or better quality of the White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community.

Condition 9 requires the person taking the action to verify, through independent review, the quantity and condition class of White Box—Yellow Box—Blakely's Red Gum Grassy Woodland and Derived Native Grassland ecological community and the quantity and quality of habitat for the regent honeyeater, swift parrot and greater long-eared bat within all proposed offset areas including those proposed in the Environmental Assessment, and any additional offsets as required in Condition 8. Details of all independently verified offset areas must be submitted to the Minister for approval by 30 December 2012. The findings of the independent review must be published on the proponent's website.

If the independent review finds that the offset areas do not meet the requirements of conditions 8 and 9, then additional areas must be included in the offset areas until all relevant criteria under these conditions are met.

- 7a. The Maules Creek Coal Mine EPBC Act approval was an accredited assessment undertaken under the New South Wales Government's *Environmental Assessment and Planning Act 1979* (EP&A Act). In accordance with administrative arrangements, the department's input into the assessment of the Environmental Assessment commenced with the provision of Commonwealth requirements on 17 August 2010 and terminated with the approval decision on 11 February 2013. Over the two and a half year period of assessment, a number of Assessment Officers and Senior Executives devoted varying hours of work time at relevant points in the process including but not limited to the adequacy review, merit review and final assessment.
- 7b. Under the arrangements for accredited assessment, the assessment of the proposal is undertaken primarily by the New South Wales Government. Expert advice provided to the New South Wales Government in relation to the assessment of this proposal is available on the New South Wales Department of Planning and Infrastructure (DP&I) website.

In addition to the advice obtained by the New South Wales Government, the department sought advice internally from officers with expertise in the matters of environmental significance that were the controlling provisions for this proposal, that is, threatened species and communities and migratory species.

- 7c. Under the EPBC Act the proponent must not provide false or misleading information and the onus is on the proponent to provide all relevant information in relation to the environmental assessment of their proposal. The EPBC Act has offence provisions for knowingly providing false or misleading information to obtain an approval under national environmental law.
8. Under the arrangements for the accredited assessment, the assessment of the proposal is undertaken primarily by the New South Wales Government. Under the New South Wales EP&A Act the proponent is legally bound to undertake a social and economic impact assessment of their proposal. The New South Wales DP&I, the agency responsible for the assessment of the proposal under the New South Wales EP&A Act, reviewed and reported on the social and economic impact assessment in the Director General's Assessment Report (available on the DP&I website). This information was considered by the department in finalising the Commonwealth's assessment of this project.
9. The department and the Minister have followed due process in the assessment and approval of the Maules Creek Coal Mine Proposal.

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Program: Division or Agency: 5.2: EACD **Question 113**
No:

Topic: Gladstone Harbour

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. What steps has the department taken to investigate contaminants which biomagnify in marine biota in Gladstone Harbour?
2. What studies have been undertaken to evaluate and monitor the noise and cumulative impacts of 22,000 vessel movements a month in Gladstone Harbour? (reference for 22,000 <http://www.greatbarrierreef.org.au/gladstone-harbour-22000-vessel-movements-a-month/>)
3. Will the department provide details of the number of recommendations made by the Poiner panel that have been implemented?
4. Will the department list what studies have priority and have been funded as required in the first year and are in progress under the ERMP conditions?
5. Has the department received advice that according to researcher Daniele Cagnozzi, Southern Cross University, Sousa dolphins off Curtis Island have suffered a 35% mortality?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) understands that no persistent concentrations of contaminants above the relevant aquatic ecological health standards, as described in the Australian and New Zealand Environment and Conservation Council (ANZECC) Fresh and Marine Water Quality Guidelines (October 2000), have been detected.
2. The approval under national environmental law requires Gladstone Ports Corporation Limited to develop and implement a Biodiversity Offset Strategy. One of the programs within this strategy is to undertake an assessment of marine traffic within Gladstone Harbour.
3. The Gladstone Fish Health Scientific Advisory Panel, which is chaired by Dr Ian Poiner, reports to the Queensland Government. The implementation of the recommendations made by this panel is a matter for the Queensland Government.
4. The Ecosystem Research Monitoring Programme project update is provided at **Attachment A**. Priority has been given to Tier 1 projects.

5. The department is aware of a report by Dr Daniele Cagnozzi which identifies an apparent decline in the abundance of the regional population of the humpback dolphin. The report does not identify whether the decline in abundance is a result of mortality or migration. Dr Cagnozzi states that it will take further research in 2013 to determine whether the decline is permanent or whether dolphins have temporarily moved away.

Tier	DSEWPac Condition Reference per Approved ERMP	DSEWPac Condition Category	Contract Title	Objective	Contract Status	Contract Start Date
EPBC Approval						
	33b	Marine Megafauna	Marine Megafauna Monitoring	Conduct surveys to determine marine megafauna baseline population characteristics, carrying capacity of nearby habitats and effects caused by the project	Completed	28/02/2011
	33g,h	Migratory Shorebirds	Migratory Shorebird Monitoring	Identify changes in the abundance and distribution of shorebirds prior to and during the first 2 years of dredging	Commenced	25/01/2011
	33i	Migratory Shorebirds	Migratory Shorebird Monitoring	Identify changes in the abundance and distribution of shorebirds - Annual Summer Surveys in years 3 to 8 of the ERMP	Commenced	1/02/2013
	33i	Migratory Shorebirds	Migratory Shorebird Monitoring	Identify changes in the abundance and distribution of shorebirds in years 9 and 10 of the ERMP	Not Commenced	
ERMP Tier 1 Projects						
1	33c	Marine Megafauna	Baseline Light Monitoring of Marine Turtles	Baseline ambient light study	Completed	8/01/2011
1	33	Marine Megafauna	Monitoring of Coastal Dolphins	Conduct literature review on coastal dolphins in the Port Curtis and Port Alma region and develop public website with photographic identification data showing dolphin species.	Completed	1/05/2012
1	33	Marine Megafauna	Monitoring Corals & Associated Benthos	Conduct review and gap analysis of scientific literature on corals, associated benthos and fish in the Port Curtis and Port Alma region.	Commenced	1/08/2012
1	33	Seagrass	Research & Monitoring of Seagrass Communities	Conduct review and gap analysis of scientific literature on seagrass in the Port Curtis and Port Alma region.	Commenced	15/10/2012
1	33	Marine Megafauna	Monitoring of Coastal Sea Turtles: Gap Analysis	Conduct review and gap analysis of scientific literature on Coastal Sea Turtles in the Port Curtis and Port Alma region.	Commenced	15/11/2012
1	33	Migratory Shorebirds	Monitoring of Migratory Shorebirds: Literature Review	Conduct review and gap analysis of scientific literature on Migratory Shorebirds in the Port Curtis and Port Alma region.	Commenced	23/11/2012
1	33	Marine Megafauna	Review of Water Quality Studies	Conduct review and gap analysis of scientific literature on Water Quality in the Port Curtis and Port Alma region.	Commenced	23/11/2012
1	33	Seagrass	Mangrove & Saltmarsh Monitoring	Conduct review and gap analysis of scientific literature on Mangrove and Saltmarsh tidal extent in the Port Curtis and Port Alma region.	Commenced	4/12/2012
1	33	Marine Megafauna	Monitoring of Dugongs	Conduct review and gap analysis of scientific literature on dugongs in the Port Curtis and Port Alma region.	Commenced	1/01/2013
ERMP Tier 2 Projects						
2	33b,c	Marine Megafauna	Monitoring of Coastal Sea Turtles: Determine the species composition, size, sex, growth rates, recruitment, survivorship and health of the turtle fauna in Port Curtis and Port Alma	Rodeo captures/beach jumping at Pelican Banks and the Boyne River Estuary. Opportunistic tunnel netting at three sites within the Narrows and three sites in the western basin of Port Curtis. These sites should be locations where environmental conditions such as turbidity reduce visibility. Use best practice analyses to interpret these data in the context of other data collected by the Queensland Department of Environment and Heritage Protection, to inform the ongoing assessment and management of the impacts on these species in the Port Curtis and Port Alma regions.	Not Commenced	
2	33b	Marine Megafauna	Monitoring of Coastal Sea Turtles: Conduct regional scale survey of turtles from Bustard Head- Port Clinton and Capricorn Bunkers	Conduct regional scale survey of turtles from Bustard Head-Port Clinton and Capricorn Bunkers (complement previous surveys conducted every 10 years) - 2 day helicopter survey plus 2 days data processing	Not Commenced	
2	33b	Marine Megafauna	Monitoring of Coastal Sea Turtles: Monitoring of index beaches at Peak Island and Curtis island	Monitoring of index beaches at Peak Island and Curtis island - 4 weeks field work per year	Not Commenced	
2	33c	Marine Megafauna	Monitoring of Coastal Sea Turtles: Monitor the impacts of coastal lighting on marine turtle populations in the Port Curtis and Port Alma regions	Analyse the light horizons associated with coastal development as measured at the significant turtle nesting beaches along the Gladstone-Yeppoon coast and analyse disruption of ocean finding behaviour of nesting adult and hatchling marine turtles.	Not Commenced	
2	33	Marine Megafauna	Increase understanding of the cause of death and health and genetic status of megafauna	Conduct pathology, genetic and heavy metal analysis when carcasses recovered or species captured and sampled	Not Commenced	
2	33b,c,e	Marine Megafauna	Monitoring of Marine Megafauna: Increase understanding of megafauna use of the Port Curtis and Port Alma waterways	Purchase, install and field test using appropriate transmitters (not attached to target animals), an array of acoustic receivers at strategic locations within the ports of Port Curtis and Port Alma including the Narrows in accordance with the standards of Australian Animal Tagging and Monitoring System of the National Integrated Marine Observing System.	Not Commenced	
2	33b	Marine Megafauna	Monitoring of Marine Megafauna: Increase understanding of megafauna use of the Port Curtis and Port Alma waterways	Attach acoustic transmitters to up to 30 individuals of each marine megafaunal species using best practice protocols - (Tagging of dolphins and dugongs placed on hold as advised by the ERMP Advisory Panel. Turtle tagging may proceed.)	Not Commenced	
2	33b	Marine Megafauna	Monitoring of Marine Megafauna: Increase understanding of megafauna use of the Port Curtis and Port Alma waterways	Attach satellite tags to up to 10 individuals of each species of marine turtles, and potentially dugongs and coastal dolphins if appropriate. Catching and tagging methods can be developed / determined using best practice protocol.	Not Commenced	

Tier	DSEWPac Condition Reference per Approved ERMP	DSEWPac Condition Category	Contract Title	Objective	Contract Status	Contract Start Date
2	33b	Marine Megafauna	Monitoring of Marine Megafauna: Increase understanding of megafauna use of the Port Curtis and Port Alma waterways	Regularly download and prepare satellite and acoustic data to enable analysis of movements, behaviour and habitats use of tagged animals.	Not Commenced	
2	33b,c	Marine Megafauna	Monitoring of Coastal Dolphins: Increase understanding of dolphin activity and populations within Port Curtis and Port Alma	Extend mark and recapture program including genetics, heavy metals, and stable isotope analyses; use best practice analysis to provide an ecological interpretation of observed changes. Conduct annual field trip/s to update information from mark and recapture program.	Not Commenced	
2	33g	Migratory Shorebirds	Curate Monitoring Datasets	Create a database of existing shorebird monitoring data which allows for the easy importation of future monitoring data.	Not Commenced	
2	33j	Migratory Shorebirds	Correlates of changing shorebird numbers	Migratory Shorebird Monitoring: Associate changes with aspects of Port development (construction and operation) - after completion of all shorebird surveys	Not Commenced	
2	33g	Migratory Shorebirds	Understanding Ecological Impact	Determine carrying capacity and size of functional area	Not Commenced	
2	33	Marine Megafauna / Seagrass	Database development and data storage	Store all data collected under the ERMP and prevent data fragmentation.	Not Commenced	
2	33l,m	Seagrass	Research and Monitoring of Seagrass Communities: The distribution, status and resilience of seagrass in the central Queensland region	Develop a seagrass metapopulation model as an adaptive management tool for monitoring and predicting seagrass survival and recovery. Model needs to be inclusive of stress indicators. Update model at 9/10 year mark. NB: Local focus - no extrapolation of species data from elsewhere. Collect relevant autecological and synecological seagrass data.	Not Commenced	
2	33d,l	Seagrass	Research and Monitoring of Seagrass Communities: Evaluate seagrass nutritional quality in Port Curtis and Port Alma	Evaluate local seagrass seed bank recovery potential and resilience, potentially within the context of a metapopulation analysis. Establish different species seed viability, germination rates, and establishment rates. Examine seasonal and stress influences. NB: Local focus - no extrapolation of species data from elsewhere.	Not Commenced	
2	33d,l	Seagrass	Research and Monitoring of Seagrass Communities: Evaluate seagrass nutritional quality in Port Curtis and Port Alma	Determine the nutritional quality of the different local seagrass species	Not Commenced	
2	33d,l,m	Seagrass	Research and Monitoring of Seagrass Communities: The distribution, status and resilience of seagrass in the central Queensland region	Identify and update alternative seagrass refuges in the central Queensland region	Not Commenced	
2	33l	Seagrass	Research and Monitoring of Seagrass Communities: Establish long term monitoring of seagrasses in Port Curtis and Port Alma	Establish a robust sampling design (use a modified FHAP program that was established for the Florida Everglades). Expand upon PCIMP sites to include all relevant sites and improve sampling methods.	Not Commenced	
2	33m	Seagrass	Mangrove and Saltmarsh Monitoring: develop a public access website and data entry portal for the display of current and past mapping plus assessments and shoreline profiles showing habitat types, their condition, as well as drivers of change, and other health criteria.	Develop a public-access website featuring contributor links, along with assessments of risk and vulnerability of the study area shoreline - including all estuaries, channels and islands. Combine historical and current information on the condition of mangrove and tidal wetland vegetative communities, including any significant impacts of episodic change during the study period.	Not Commenced	
2	33m	Seagrass	Mangrove and Saltmarsh Monitoring: Map and quantify the full extent of tidal wetland vegetation units and how they have changed.	Mapping of the current extent and condition of mangrove and saltmarsh habitats of the wider Port Curtis and Port Alma region. Compare these maps with prior mapping of these habitats. Upload these maps onto the purpose built website.	Not Commenced	
2	33m	Seagrass	Mangrove and Saltmarsh Monitoring: Fixed Habitat - Shoreline Condition Monitoring - Boat-borne surveys	Develop a regular twice annual long-term monitoring and analysis project using community volunteers and researchers using boat-borne video image data acquisition to advise future management plans of the condition, biomass and health of shoreline habitats. Data will be shown in custom software.	Not Commenced	
2	33m	Seagrass	Mangrove and Saltmarsh Monitoring: Fixed Habitat Survey - Shoreline Condition Monitoring - Aerial Shoreline Surveys	Conduct oblique aerial shoreline surveys of key processes and impacts taking place in tidal wetlands and mangrove communities for quantification of key ecological processes, like climate effects, pollution impacts, and severe storm events. Data will be presented online in custom software.	Not Commenced	
2	33m	Seagrass	Mangrove and Saltmarsh Monitoring: Forest biomass (blue carbon) and longer term plot assessment and monitoring - as linked to mapping vegetation type and condition	Conduct field surveys of structure and biomass of shoreline habitat vegetation both above ground and below ground. These studies are needed to validate assessments made in aerial and boat surveys. Establish index sites and points of reference.	Not Commenced	

Tier	DSEWPac Condition Reference per Approved ERMP	DSEWPac Condition Category	Contract Title	Objective	Contract Status	Contract Start Date
2	33m	Seagrass	Monitoring Corals and Associated Benthos: Increased understanding of the status of corals and associated benthos in Port Curtis and Port Alma waterways.	<p>Conduct surveys of corals and associated benthos at long-term monitoring sites including multiple control sites to establish the long-term monitoring program.</p> <p>Analyse pilot study to determine statistical power to detect changes and finalise long-term monitoring survey design and replication.</p> <p>Analyse data to compare changes within and among sites. Report on status and significant changes in these benthic communities after each monitoring period.</p>	Not Commenced	

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Program: Division or Agency: 5.2: EACD **Question No:** 114

Topic: Assessment of Queensland
Government's ability to administer
the EPBC Act

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

In response to an FOI request from my office, I was advised that there was only one document created that assessed or evaluated the capacity and likelihood of relevant Queensland Government departments to effectively administer the EPBC Act if approvals bilateral agreement were to be entered into under the EPBC Act. I was advised only one document existed (there's not much in it) – can you confirm that's really it? That there was really no other work to assess Queensland's ability to take on the Commonwealth's role?

Answer:

On 10 October 2012, the Department of Sustainability, Environment, Water, Population and Communities received a Freedom of Information (FOI) request from Senator Larissa Waters. On 20 December 2012, a delegate under the *Freedom of Information Act 1982* made a decision, to release in full, all 14 documents that they were satisfied fell within the scope of the FOI request. Those documents were provided to the FOI applicant on 22 January 2013.

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Program: Division or Agency: 5.2: EACD **Question No:** 115
Topic: Strategic assessment process
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

1. In the strategic assessment process, that results in essentially an approvals bilateral, where the Newman Government will decide the future of the Reef – will the Department be doing any assessment not just of what laws are in place, but the commitment and/ or capacity of the Queensland Government to actually deliver good outcomes under their laws?
2. Does the department recognise that discretion is inherent in many environmental approvals decisions, that who makes the decision matters?

Answer:

1. The strategic assessment will investigate the adequacy of the Queensland Government's existing and proposed management arrangements to protect matters of national environmental significance, including the Outstanding Universal Value of the Great Barrier Reef World Heritage Area.

In determining whether to endorse the Queensland Government's program under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), the Minister for Sustainability, Environment, Water, Population and Communities (the Minister) will consider the extent to which the program provides good environmental outcomes, especially for those aspects of the environment that are matters of national environmental significance.

If the program is endorsed, the Minister retains responsibility for deciding whether to approve actions, or classes of actions.

2. The EPBC Act provides the legal framework and standards to protect and manage nationally and internationally important flora, fauna, ecological communities, heritage places and Commonwealth marine areas, defined in the EPBC Act as matters of national environmental significance. Actions approved in accordance with an endorsed program under the EPBC Act, whether by the Minister or a delegate, must not have unacceptable impacts on matters of national environmental significance.

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Program: Division or Agency: 5.2: EACD **Question No:** 116

Topic: Compliance with approvals bilateral agreements

Proof Hansard Page and Date or Written Question: Written

Senator Waters asked:

1. Did the department investigate or advise the Minister on the Queensland Government's breach of the assessment bilateral agreement in respect of the Alpha coal mine referral?
2. Did the department draw any inference as to the likelihood of compliance with approvals bilateral agreements based on this incidence of non-compliance with the assessment bilateral?
3. On what basis did the Commonwealth assert that compliance with both approvals bilaterals and the Standards would be assured given the breach(es) of compliance with assessment bilaterals?
4. What were the compliance assurance mechanisms in the proposed approval bilateral agreements? Was it proposed that these would apply on a project-by-project basis, ie, if a particular project was in breach of the approvals bilateral agreement what recourse was open to the Minister?

Answer:

1. The assessment bilateral agreement with Queensland requires that state assessment reports must provide enough information about the action and its relevant impacts to allow the Commonwealth Environment Minister to make an informed decision whether or not to approve the proposal under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). The Department of Sustainability, Environment, Water, Population and Communities (the department) advised the Minister that the Queensland Coordinator-General's assessment report of the Alpha Coal Mine and Rail project was deficient in a number of areas and, as such, further information was required for the Commonwealth Environment Minister to make an informed decision on the Alpha coal mine proposal.
2. There are currently no approvals bilateral agreements under the EPBC Act. Previous discussions with jurisdictions did not advance to compliance and assurance mechanisms being developed.
3. The *Draft Framework of Standards for the Accreditation of Environmental Approvals under the EPBC Act* was published in July 2012. Those Standards indicated that an approval bilateral agreement must include mechanisms so that governments and the community would know that the standards for accreditation, together with environmental outcomes, are maintained. Approval bilateral agreements, including associated assurance mechanisms to be included in such agreements, have not been developed.

4. See the answer to Question 3. The Standards also reference assurance mechanisms in Part 5 of the EPBC Act, which require that high environmental standards must be met before the Commonwealth could enter into an approval bilateral agreement.

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Program: Division or Agency: 5.2: EACD **Question 117**
No:

Topic: Improving assessment bilateral agreements

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. In estimates PM&C informed me that SEWPAC was now looking at how to improve assessment bilateral agreements. What possible improvements could be made?
2. What improvements are being considered?

Answer:

1. In line with the Council of Australian Governments' decision of December 2012, the Commonwealth proposes to continue to work with states to eliminate duplication, avoid delayed approval processes and utilise common information requirements. This may include work to improve assessment bilateral agreements to further streamline environmental regulation.
2. The Commonwealth proposes to consider any improvements that may streamline assessment processes under bilateral agreements including enhanced administrative arrangements, greater use of common information and further cooperation.

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Program: Division or Agency: 5.2: EACD **Question 118**
Topic: Alpha Coal Mine **No:**
Proof Hansard Page and Date Written
or Written Question:

Senator Waters asked:

1. In your comments on the Queensland Coordinator General's report on the Alpha coal project in or around May last year, the department stated if the endangered Black throated finch (southern) was "found or believed to be present [at the Alpha site], the estimated 7,154 hectares of largely contiguous habitat on the proposed mine site would almost certainly be considered "habitat critical to the survival of a species." Further north of this site, at the proposed Carmichael mine site, there have been 89 sightings of this species, and around 10,000 ha of habitat is proposed to be cleared. Can the Dept confirm that by applying the same logic, this 10,000 ha is also "habitat critical to the survival" of the Black-throated finch (southern)?
2. Noting the report in The Australian on 3 December last year, that Resources Minister Martin Ferguson, with Queensland Premier Campbell Newman, personally "pledged their governments' commitment to granting all regulatory and environmental approvals by mid next year" is the Minister's approval of the Carmichael mine already promised, and what assurance can you provide that if it is found that this mine will have unacceptable impacts on the Black-throated finch (southern), the Minister will fulfill his statutory responsibility to refuse approval for it?

Answer:

1. The Adani Carmichael Mine and Rail project is being assessed under the Bilateral Agreement between the Commonwealth and the State of Queensland relating to environmental assessment (the bilateral agreement). As part of this assessment, the potential impacts of the project on the Black-throated Finch and its habitat will be assessed.
2. The timing of the assessment process and requirements for the Carmichael Coal Mine and Rail project assessment are determined by the bilateral agreement and underpinning administrative arrangements, and the statutory requirements of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). Subject to these requirements being met, the Minister will make a decision with regard to the acceptability of impacts to matters of national environmental significance, taking into account a range of information, including the advice of the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development and the department's advice under the EPBC Act.

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Program: Division or Agency:	5.2: EACD	Question No:	119
Topic:	Government response to the Hawke review of the EPBC Act – community consultation		
Proof Hansard Page and Date or Written Question:	Written		

Senator Waters asked:

Does the Department intend to consult with the community if the government departs from the position it set out in its government response to Hawke?

Answer:

The Australian Government response to the Independent Review of the *Environment Protection and Biodiversity Conservation Act 1999* states that the government is committed to ongoing consultation given significant public interest regarding the legislation and its potentially broad application to all sectors.

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Program: Division or Agency: 5.2: EACD **Question** 120
No:

Topic: Queensland ports strategy

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. Has the Department seen the Queensland Government's economic analysis of the ports strategy that shows Queensland ports operating at half empty?
2. How is the department investigating ways of improving port efficiency rather than new development?
3. How is the strategic assessment going to ensure that increasing ports efficiency is genuinely and fully assessed?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) has seen the economic analysis of the Ports Strategy, commissioned by the Queensland Government.
2. Through the environmental assessment processes under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act), the department investigates how the impacts of port development and operation on matters protected under the EPBC Act can be avoided or mitigated. The department has also funded a proposal to investigate International best practice environmental standards for ports.
3. The comprehensive strategic assessment will consider all information relevant to impacts on protected matters from port development and operation. This includes the Queensland Government's Great Barrier Reef Ports Strategy and its economic analysis, as well as the outcomes of the report commissioned by the department into International best practice environmental standards for ports.

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Program: Division or Agency: 5.2: EACD **Question No:** 121

Topic: Impacts of the sinking of illegal vessels in spawning grounds of Southern Bluefin Tuna

Proof Hansard Page and Date Written

or Written Question:

Senator Colbeck asked:

1. What assessment has been undertaken into the impacts of the sinking of illegal refugee vessels in the waters off Christmas Island?
2. Is the Minister aware of claims that this has resulted in 20,000 tonnes of toxic waste being deposited in the only known spawning ground of SBT?
3. How does this align with Minister Burke's declaration in the House on 6 February 2013 that "This government unapologetically takes great care and great caution in protecting our oceans"?
4. Should the government be fined for this?
5. What level of certainty does DAFF / SEWPaC have of the potential impact of this action on SBT stocks?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) is currently assessing an application to dispose of apprehended vessels at sea under the *Environment Protection (Sea Dumping) Act 1981* (the Sea Dumping Act) submitted by the Australian Fisheries Management Authority and Customs Border Protection Command. The application includes an analysis of the suitability for ocean disposal, disposal options, and potential environmental risks for the disposal of wooden hulled vessels at 11 locations across northern Australian waters, two of which are for sites adjacent to Christmas Island.

In relation to past sinking of suspected illegal entry vessels (SIEVs), the department understands that a proportion have been disposed on land. Due to the typically poor condition of SIEVs and the large towing distances to land-based disposal facilities, vessels may be disposed at sea where Customs Border Protection Command makes an assessment that an extended towing of the vessel would pose an unacceptable safety risk. For vessels disposed at sea in such circumstances, the department receives incident reports from Customs Border Protection Command, which predominantly indicate that vessels are sunk where the vessel poses a serious safety risk. Relevantly, the Sea Dumping Act provides for an exemption from a requirement to obtain a permit if the conduct appeared to be the only way of averting a threat to human life, or to the safety of a vessel, aircraft or platform, and there was every probability that the damage caused by the conduct would be less than would otherwise occur.

2. The department is aware of the claim cited in the Geraldton Guardian of 1 February 2013.
3. See the response to question 1 above.
4. The department is not currently investigating any potential breaches under the Sea Dumping Act for the disposal of apprehended vessels.
5. See the response to question 1 above. The department does not have information to indicate that there is likely to be a significant impact on Southern Bluefin Tuna stocks from localised disposal of apprehended vessels in the waters off Christmas Island. The Southern Bluefin Tuna is highly migratory, occurring globally in waters between 30–50° South. Adult Southern Bluefin Tuna in Australian waters range widely from northern Western Australia to the southern region of the continent, including Tasmania, and to northern New South Wales.

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Program: Division or Agency: 5.2: EACD **Question No:** 122

Topic: Impacts of seismic testing

Proof Hansard Page and Date Written

or Written Question:

Senator Colbeck asked:

1. Given the evidence that seismic testing can have an impact on squid and scallops, what risk assessment has DSEWPaC undertaken related to recent permits issued?
2. What conditions accompanied the permits? Is there any requirement for scientific testing to accompany the seismic testing to provide more data on the impacts of seismic testing?
3. What data does DSEWPaC have that seismic testing does not negatively impact squid and scallops?
4. The Minister has recently banned seismic testing in and near the Ningaloo Marine Park because it could impact loggerhead turtles and other testing has been timed to avoid blue whales and fairy penguins. Isn't there an argument for intervening to at least adjust the timing of testing to minimise the risk of impact?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) assesses all projects referred under the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) on a case-by-case basis to determine whether the project is likely to have a significant impact on a matter of national environmental significance.
2. Under the EPBC Act seismic survey proposals are typically deemed 'not controlled actions' provided they are undertaken in a 'particular manner'. Particular manners are measures the proponent must undertake to ensure that potential impacts are avoided or mitigated so that the proposed action will not have a significant impact on the matters protected under the Act. As scientific testing and research do not, of themselves, mitigate the impacts of seismic surveys, they are not included as components of 'particular manner' decisions. All decisions on actions referred under the EPBC Act can be found on the department's website at <http://www.environment.gov.au/cgi-bin/epbc/epbc>.
3. Based on the scientific information currently available, the evidence does not suggest seismic testing is likely to result in a significant impact on the Commonwealth marine area via impacts to marine invertebrate populations.
4. The timing of actions proposed by proponents is considered in determining whether a project is likely to have a significant impact on a matter of National Environmental Significance under the EPBC Act.

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Program: Division or Agency: 5.2: EACD **Question No:** 123
Topic: Regional Forest Agreements
Proof Hansard Page and Date Written
or Written Question:

Senator Di Natale/Waters asked:

1. On November 2, 2012, The Age newspaper, in an article entitled "Possum protection under investigation" reported that the Department was reviewing documents from a recent Supreme Court case over three proposed logging coupes near Toolangi from state-owned timber company VicForests, in order to determine whether a regional forestry agreement for Victoria's central highlands had been breached.
 - a. Is the review referred to in The Age article referred to above part of the 5-yearly Regional Forest Agreement review process? Or is it a completely separate review? Structurally and organisationally, how does the review relate to and inform to the 5-yearly review? Will the review findings inform the 5-yearly review process? Which review is scheduled to be completed first?
 - b. What is the review's purpose? What are its Terms of Reference and intended outcomes?
 - c. If the review is a part of the 5-yearly Regional Forest Agreement review process, have any dedicated and/or additional resources (for example a dedicated budget and staff) been allocated to undertake this review? If yes please outline the extent of these resources. If not, why not and what implications will this have for the timeliness and effectiveness of the review?
 - d. If this is a separate review, what prompted the review? Was the review prompted by the court decision in MyEnvironment Inc v VicForests [2012] VSC 91 (14 March 2012)?
 - e. Who initiated the review? Who holds ongoing responsibility within the Department for managing and coordinating the review?
 - f. How will the findings of the review be utilised? What are the possible outcomes if a breach is established by the review? What is the process around this?
 - g. Will the findings of the review be made public? Will the public have any opportunity to make submissions to the review? Will the review involve any consultation external to the Department? If yes, with whom has the Department consulted and whom do they intend to consult?
 - h. When is it anticipated that the review will be completed? If no date has been set, please provide your best estimate as to when the review will be completed.

2. Is the department satisfied that the Victorian State Government is meeting its forest management and species protection obligations under the Regional Forest Agreements? If not, what action is being undertaken by the department to ensure these obligations are being met, by all signatories?

Answer:

- 1a. The review referred to in The Age is not part of the 5-yearly Regional Forest Agreement (RFA) review process. Following receipt of a range of correspondence, the Department of Sustainability, Environment, Water, Population and Communities (the department) is conducting inquiries in accordance with the department's the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) Compliance and Enforcement Policy into the operations of the Central Highlands RFA.
- 1b. The inquiries are intended to assist in determining whether forestry operations in the Toolangi region are being, or have been, conducted in accordance with the Central Highlands RFA.
- 1c. The inquiries are not part of the 5-yearly RFA review process. No additional staff or recourses have been allocated to this review, as it is being undertaken as part of the normal EPBC Act compliance regime.
- 1d. Following receipt of a range of correspondence, the department is conducting inquiries in accordance with the department's EPBC Act Compliance and Enforcement Policy into the operations of the Central Highlands RFA. The inquiries did not result from the *MyEnvironment v VicForests* court case, however the court results and comments were included within the line of inquiries.
- 1e. The inquiries are being undertaken by the department as part of the routine compliance process of the department and is being overseen by the relevant Senior Executive Service officer.
- 1f. If relevant, the process for addressing potential breaches is specified in the Central Highlands RFA. Forestry operations which are not carried out in accordance with an RFA, and which significantly impact on a matter of national environmental significance may be subject to penalties of up to \$8,500,000. It is not appropriate to speculate on the outcomes of this review at this stage.
- 1g. The department will undertake its inquiries to gather the information necessary to conclude its assessment, but it is not anticipated that this will include a request for public submissions.
- 1h. The inquiries are ongoing.
2. The inquiries are ongoing.

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Program: Division or Agency: 5.2: WHM **Question No:** 124

Topic: Kangaroos – mortality rate following natural disasters

Proof Hansard Page and Date Written

or Written Question:

Senator Rhiannon asked:

1. Given epidemic mass mortality events and fatal diseases that occur in kangaroo populations following fires and flooding, and will the kangaroo quotas be reviewed in light of the multiple natural disasters such as flooding, bushfire and drought, that have occurred in 2013 across Australia?
2. What actions have been taken to determine mortality of kangaroos after floods and bushfires in parts of Australia during the year?
 - a. If none, why not?; and
 - b. what information or science has informed the decision to not review kangaroo quotas, with a particular regard to mass mortality caused by natural disasters?

Answer:

1. Kangaroo quotas are reviewed annually based on regular surveys of kangaroo populations in harvest areas. If surveys reveal that a kangaroo population has severely declined within a harvest region (for example, as a result of natural disasters such as flooding, bushfire or drought), the state and territory is required to reduce or suspend their quota for that particular species within that region.
- 2a. It is the responsibility of states and territories to monitor and manage kangaroo populations.
- 2b. Kangaroo quotas are reviewed annually based on regular surveys of kangaroo populations in harvest areas.

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Additional Budget Estimates, February 2013

Program: Division or Agency: 5.2: WHM **Question No:** 125
Topic: Leadbeater's possum recovery plan
Proof Hansard Page and Date Written
or Written Question:

Senator Rhiannon asked:

The Leadbeater's Possum Recovery Plan (1997) has, as its overall objective, "To downlist Leadbeater's Possum from endangered to vulnerable within 10 years ..."; and the Recovery Action 1 required the establishment of a Leadbeater's Possum Management (Recovery) Team.

Given that application has been made to upgrade the species listing to Critically Endangered and that Dr David Lindenmayer has resigned from the Recovery Team:

1. How successful is the recovery plan considered to be?
2. What action is being undertaken to address these deficiencies? Is the CAR Reserve system being reviewed in light of the losses in the 2009 Black Saturday fires?
3. Has the Minister discussed the current, urgent needs of the species with Dr Lindenmayer?
 - a. What actions did he recommend?
 - b. What changes would be necessary to allow Dr Lindenmayer to re-engage with the Recovery Team?
4. When will the revised Victorian Action Statement and federal Recovery Plan be available for review and comment?

Answer:

The Victorian Government oversees implementation of the current Leadbeater's possum recovery plan. The Department of Sustainability, Environment, Water, Population and Communities (the department) understands that a number of recovery plan actions are being implemented by the Victorian Government, including:

- a captive breeding program at Zoos Victoria;
- predator control in the Central Highlands;
- community grants for habitat restoration, including nest boxes, revegetation and monitoring; and
- a \$1.86 million project to collect new information relating to timber production and the protection of biodiversity, including population surveys and assessments of habitat suitability across the Leadbeater's possum range.

The department also understands that in 2009 the Victorian Government allocated funding for fire recovery projects associated with flora and fauna values. These included a specific project focusing on the impact of the fires on Leadbeater's possum and its habitat in the Central Highlands.

A revised recovery plan is being finalised by the Victorian Government. It builds upon the experiences from the existing plan and includes information relating to the impacts of the 2009 bushfires. A draft has completed a period of public consultation and has been reviewed by the Threatened Species Scientific Committee.

Professor David Lindenmayer has provided advice on a range of Leadbeater's possum issues to the Minister for Sustainability, Environment, Water, Population and Communities. This advice together with other comments received is being considered in finalising the new recovery plan. Once the Victorian Government has addressed issues raised through this process, the revised plan will be considered for adoption under the *Environment Protection and Biodiversity Conservation Act 1999* to replace the existing plan.

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Additional Budget Estimates, February 2013

Program: Division or Agency: 5.2: WHM **Question No:** 126

Topic: Employment rate in the kangaroo
meat processing industry

Proof Hansard Page and Date Written

or Written Question:

Senator Rhiannon asked:

1. How many people have left the commercial kangaroo industry since the Russians banned the import of kangaroo meat in 2009?
2. How many people lost their full time employment as a clear result of the loss of access to the Russian market?
 - a. Please provide a copy of the data that informs this information?
3. How many people were employed in kangaroo meat processing plants across Australia in each year from 2008 to 2012?
4. What are the reasons that people left employment in the kangaroo industry?
 - a. How many such people left the industry to work with the mining industry?
 - b. Please provide a copy of the data that informs this information?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities does not keep these statistics. Requests for this information should be directed to the Kangaroo Industry Association of Australia.
2. See answer to question 1.
3. See answer to question 1.
4. See answer to question 1.

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Additional Budget Estimates, February 2013

Program: Division or Agency: 5.2: WHM **Question No:** 127
Topic: Kangaroo meat chillers
Proof Hansard Page and Date Written
or Written Question:

Senator Rhiannon asked:

1. How many kangaroo chillers are currently operating in Queensland, New South Wales, South Australia and Western Australia, and how many people are employed to run those chillers on average?
 - a. How many businesses own or run those chillers, and what is the relationship of each chiller to other industry players such as processors and exporters of kangaroo products?
2. What are the minimum standards required for the maintenance and consistency of power to the chiller, and consistency of temperature control?
 - a. How many chillers rely on manual temperature control?
 - b. How many chillers have automated temperature control?
 - c. What is the cost of running automated temperature controlled chillers compared to the costs of manual temperature controlled chillers?
 - d. How many chillers rely on mains power and how many on generators?
3. What is the process for regulators to audit and confirm the consistency of temperatures in chillers?
 - a. Have there been any issues about this, and what are they?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities does not hold any data relating to this issue. Kangaroo chillers are regulated under State and Territory legislation. Queries about employment at kangaroo chillers should be directed to the Kangaroo Industry Association of Australia (kiaa@bigpond.net.au).
2. See answer to Question 1.
3. See answer to Question 1.