

**Senate Standing Committee on Environment and Communications**  
**Legislation Committee**  
Answers to questions on notice  
**Environment portfolio**

**Question No:** 44  
**Hearing:** Additional Estimates  
**Outcome:** Outcome 5  
**Programme:** Environment Assessment and Compliance Division  
**Topic:** EPBC approval - fit and proper person  
**Hansard Page:** 87  
**Question Date:** 24 February 2014  
**Question Type:** Spoken

**Senator Waters asked:**

Senator WATERS: My question goes to what criteria you use to determine whether a person is a fit and proper person to hold an EPBC approval as you are required to determine under the act.

Mr Knudson: I think what Mr Gaddes was pointing out was that there are a couple of places where we look explicitly: are there any particular compliance or enforcement actions that have been undertaken against the individual or his entity, and is there any knowledge that we would have with regard to state-level actions. But I suggest that, to make sure we give you as fulsome an answer as possible, we come back to you with a more detailed explanation of how that is taken into account.

Senator WATERS: Thank you. I would appreciate that, because they seem to be fairly gross breaches and, if that does not meet the criteria, I am interested in what those criteria are. Thanks for taking that on notice.

**Answer:**

1. In regard to decision making under Part 9 of the *Environment Protection and Biodiversity Conservation Act* (EPBC Act), there is no legislative requirement to determine whether a person is a fit and proper person to hold an approval.
2. However, section 136(4) of the EPBC Act states that in deciding whether or not to approve the taking of an action by a person, and what conditions to attach to an approval, the Minister may consider whether the person is a suitable person to be granted an approval, having regard to:
  - a) the person's history in relation to environmental matters; and
  - b) if the person is a body corporate--the history of its executive officers in relation to environmental matters; and
  - c) if the person is a body corporate that is a subsidiary of another body or company (the **parent body**)--the history in relation to environmental matters of the parent body and its executive officers.
2. The Department's policy statement, "Consideration of a Person's Environmental History when making Decisions under the EPBC Act", provides guidance on what information may be relevant when considering a person's environmental history. The policy statement is available on the Department's website: <http://www.environment.gov.au/resource/epbc-act-policy-statement-consideration-persons-environmental-history-when-making-decisions>.