

**Senate Standing Committee on Environment and Communications
Legislation Committee**
Answers to questions on notice
Sustainability, Environment, Water, Population and Communities portfolio
Supplementary Budget Estimates, October 2012

Program: Division or Agency: 5.2 EACD **Question No:** 145

Topic: Whales – James Price Point

Proof Hansard Page and Date 111-112

or Written Question: (15/10/12)

Senator Siewert asked:

Senator SIEWERT: ...The ongoing use of the area offshore from James Price Point and the nursery off there. Have you done any monitoring recently about the use of that area by whales or provided any advice to the assessment process for James Price Point development?

Ms Petrachenko: I am going to have to take that one on notice and check with our scientific group.

Senator SIEWERT: Okay. Have you reviewed the environmental impact assessment document that Woodside have produced? Did you do a review of that document? If you did, have you provided advice to the assessment—

Ms Petrachenko: I can answer generally, and I will have to take on notice the specifics of the case...you have mentioned.

Answer:

The Western Australian Government has provided supporting information for the strategic assessment which includes three years of whale monitoring data.

In terms of the strategic environmental assessment process, the department is reviewing the final documentation of the Western Australian Government.

The Minister's decision whether or not to endorse the James Price Point Precinct Plan, under the strategic environmental assessment process, will only be made following an assessment of all information required by the strategic assessment's terms of reference, including the final Precinct Plan and Supplementary Report.

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Program: Division or Agency: 5.2: EACD **Question No:** 146

Topic: Abbot Point T3 Approval

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. Money allocated to GBRMPA as conditions of approval for T3 terminal and was described at Senate Estimates by GBRMPA Chair Russell Reichelt as a part of the Government's offset policy. Is this correct?
2. What specific harms or impacts are these monies designed to offset?
3. According to the Government's offset policy, offsets must be "informed by scientifically robust information". What scientific information was the basis for the seagrass offset condition in the T3 approval?
4. How will the programs to which these monies have been allocated improve the environment as per the Government's offset policy?
5. According to the Government offset policy, "The Government will not consider offsets unless the intended measures to avoid and mitigate the anticipated impacts are presented at the same time, or good reasons are provided as to why avoidance or mitigation of impacts is not reasonably achievable." Please provide the reasons why avoidance and mitigation of impacts was not reasonably achievable for all offsets that are part of the T3 approval.
6. Please provide details of all bird surveys undertaken and bird survey reports prepared as part of the Cumulative Impact Assessment, including
 - a. What was covered by each survey/ survey report?
 - b. When did the Department receive copies of each survey/ survey report?
7. Do you consider the assessment of the impact of T3 on migratory and threatened birds in the Preliminary Documentation provided by Hancock Coal to be consistent with the results of the surveys of migratory and threatened birds undertaken for the Abbot Point Cumulative Impact Assessment? Please provide reasoning.
8. If the Department acknowledges that the two reports contains results and conclusions that are inconsistent, then how did the Department characterise and resolve these inconsistencies in its recommendations to the Minister?

Answers:

1. The Abbot Point Terminal 3 project (EPBC 2008/4468) conditions requiring offsets-related funding to be provided to the Great Barrier Reef Marine Park Authority are consistent with the Government's environmental offsets policy.
2. The funding forms part of the offset requirements associated with impacts on each of the controlling provisions set out in the approval decision: World Heritage properties; National Heritage places; listed threatened species and communities; listed migratory species and Commonwealth marine areas. This includes but is not limited to impacts on species marine turtle species, migratory birds, migratory marine mammals, migratory marine reptile species and associated habitats.
3. In determining the seagrass related offsets conditions the Minister drew on information in the Preliminary Documentation that estimated the area of impact associated with the Terminal 3 development.
4. The funding to be provided in accordance with the approval conditions for the T3 Terminal includes funds to be directed towards minimising threats to EPBC Act listed threatened and migratory species and habitats as a result of the construction and operation of the terminal.

Additional funding is to be provided towards protection and management of the reef ecosystem through the joint Australian Government-Queensland Government Field Management Program and specific activities undertaken by the Great Barrier Reef Marine Park Authority for conservation benefits in the Great Barrier Reef Marine Park and Great Barrier Reef World Heritage Area which includes Abbot Point.

5. As the project consists of the construction and operation of a coal terminal in a coastal area, some residual environmental impacts are unavoidable and would not be mitigated. The avoidance and mitigation measures associated with the T3 development are set out in the Preliminary Documentation and are key requirements under the various management plans that must be approved by the Minister prior to the commencement of any project activity.
6. The Cumulative Impact Assessment (CIA) was undertaken by the Abbot Point CIA group, of which the T3 Terminal proponent was a member. The proponent had access to the bird surveys undertaken through this work for preparation of their Preliminary Documentation.

A summary of the bird studies supporting the CIA was included at Chapter 9 of the preliminary CIA report, released on 24 October 2012. This information is expected to also be released by the Abbot Point CIA group in early 2013 as part of the final CIA report.

7. The assessment of the T3 Terminal development was completed prior to the finalisation of the preliminary report on the Abbot Point CIA. However, the conditions of approval include a requirement for the person undertaking the action to prepare a Management and Monitoring Framework that will underpin an adaptive management approach to the operation of the T3 Terminal and the development of that framework must fully reflect the findings of the final CIA.
8. See response to question 7.

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Program: Division or Agency: 5.2: EACD **Question 147**
No:

Topic: Bremer canyon

Proof Hansard Page and Date Written

or Written Question:

Senator Siewert asked:

1. With respect to the marine ecosystem in the Bremer Canyon sub-Basin off the Coast of Fitzgerald River National Park, particularly the hydrocarbon vent which is linked to a mineral-rich up-welling and a significant pod of Orcas;
 - a. Is the Department aware of the community concerns that depressurisation of the hydrocarbon reserve as a result of oil or gas extraction will permanently destroy this remarkable phenomena and the associated ecosystem?
 - b. Has the Department undertaken any research into the Bremer Bay sub-basin or does the Department have access to any research on this issue?
 - c. Has the Department been contacted by anyone about this issue, and how has that contact been handled?
 - d. Will the Department be undertaking or commissioning any research on this area?
 - e. Will the Department take steps to prevent any further oil and gas exploration, including the seismic surveying planned by Arcadia petroleum for this area, until research is undertaken?

Answer:

- 1a. A submission raising this issue was received during the public comment period for the referral of the Arcadia marine seismic survey under the *Environment Protection and Biodiversity Conservation Act* (the EPBC Act) (EPBC 2012/6497).
- 1b. The Department of Sustainability, Environment, Water, Population and Communities (the department) has not undertaken research into the Bremer Bay sub-basin, however, available research was taken into consideration through the marine bioregional planning process.
- 1c. See 1a. above. All comments received during that referral process were considered in the referral decision, as required under the EPBC Act.
- 1d. The Marine Bioregional Plan for the South-west Marine Region provides information on regional priorities, strategies, and actions.

- 1e. Each referral submitted to the department is assessed on a case by case basis. Exploration activities would not be expected to result in depressurisation of a hydrocarbon reserve. The issue would be relevant to a proposal for oil and gas production (that is, extraction of hydrocarbons).

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Program: Division or Agency: 5.2: EACD

Question No: 148

Topic: EPBC Referrals- staffing

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. Please provide the budget for and number of staff working on administering and assessing referrals under the EPBC Act

Answer:

1. In 2011-12, the budget for administering Chapter 4 of the *Environment Protection and Biodiversity Conservation Act 1999* was \$15,303,355. As of the last pay period of the 2011-12 financial year, the number of full time equivalents was 122.

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Question No: 149

Topic: FTE - EPBC assessment and approvals area

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. How many FTE (full time equivalent) staff currently work in EPBC assessment and approvals areas? Is this more or less than 12 and 24 months ago?

Answer:

1. As of the last paid period of each of the last three financial years, the following Full Time Equivalents worked in the *Environment Protection and Biodiversity Conservation Act 1999* Chapter 4 assessments and approvals:
 - 2012 – 122
 - 2011 – 135
 - 2010 – 121

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Program: Division or Agency: 5.2: EACD **Question No:** 150

Topic: Galilee Basin - Climate emissions

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. In its September 2012 report into the climate emissions from the Galilee Basin, Greenpeace calculated that total life cycle emissions emissions if all the coal mines in the Galilee Basin produced to maximum capacity would be 705 m tonnes of CO₂.
2. Has the Department examined this figure and claim?
3. Does the Department's analysis support that of Greenpeace?
4. Has the Department prepared any documents on this issue? (please identify)
5. How many meetings were held between the Minister and/ or the Department and mining industry or mining company representatives following the announcement that a Strategic Assessment would be prepared for the Great Barrier Reef? Provide details of:
 - a. When meetings were held
 - b. Who attended
 - c. Issues discussed
 - d. Any documents tabled
 - e. Any actions agreed to be taken by the Department
6. How many meetings were held between the Department and environmental NGOs regarding the same issue and over the same period?

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) is aware of the Greenpeace report.
2. The department is aware of this figure and claim.
3. The department has not evaluated the report's analysis. The analysis of claims regarding CO₂ emissions is more appropriately assessed through the Department of Climate Change and Energy Efficiency.
4. The department provided input to the Minister for Climate Change and Energy Efficiency's response to correspondence dated 18 September 2012 from Mr David Ritter, Chief Executive Officer of Greenpeace Australia.

5. In conducting its business, the department meets with a range of stakeholders regularly. The Minister routinely meets with a variety of stakeholders in which discussions are held that are considered in confidence. The broad scope of this question in terms of time period, content and number of meetings, means that preparing an answer would require a significant diversion of resourcing which is not available at this time.
6. Answer as per question 5 above.

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Program: Division or Agency: 5.2: EACD **Question No:** 151

Topic: Gladstone dredging and turbidity

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. The dates for the wet and dry seasons for the purposes of the Western Basin Dredging Project (WBDP) approval arrangements were changed on 31 October 2011 by the Queensland Government. What effect do these changes have on turbidity measurements and exceedances for the WBDP?
2. Was the Department consulted before those changes occurred?
3. Is the Department aware that the dry season/wet season dates were changed at the request of the Dredge Technical Reference Panel?
4. What was the basis for the request for a change in dates?
5. What are the current Federal turbidity standard/limits for a) the dry season b) the wet season?
6. Are these standards/limits the same as those imposed by the Queensland Government?
7. On how many occasions since commencement of dredging in October 2010 until now have turbidity levels at each of the monitoring sites exceeded the 99th percentile? Please provide details of dates and time periods and turbidity levels for each exceedence.
8. On how many occasions since commencement of dredging in October 2010 have turbidity levels at each of the monitoring sites exceeded the 99th percentile for a period of 48 hours or more? Please provide details of dates and time periods and turbidity levels for each exceedence.
9. Please describe all response and management actions taken in response to each of these exceedances by the Department, and the proponent.
10. What studies or research is currently being done by the federal government, the Queensland government or the proponents regarding fish disease and deaths in Gladstone Harbour?
11. What studies or reports into fish disease or kills have been completed since July 2012?
12. The Western Basin Dredge Management Plan identifies a request to permit amendment to the authority (Sea Dumping Permit) to dispose of dredge material at sea (p2). Were these amendments sought by the Gladstone Ports Corporation granted by the Department?
13. Please provide details of the original and current (as amended) permit:

- a. Amount of spoil
 - b. Location of disposal sites
 - c. Conditions of the permit
14. Does the amended permit now allow offshore disposal of material previously designated for onshore disposal?
 15. If yes to 14, under the Sea Dumping Act what are the reasons the Department permitted offshore dumping of material previously deemed viable to dispose of onshore?
 16. Please describe the basis for these amendments and whether these amendments were sought on the basis that disposal onshore was no longer viable?
 17. What is the status of the proposed 2nd shipping channel in Gladstone Harbour?

Answer:

1. The Queensland Government changes do not affect this project's *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) conditions of approval. The Department of Sustainability, Environment, Water, Population and Communities (the department) has always interpreted the wet season to be from 1 October to 31 March and the dry season to be from 1 April to 30 September. This interpretation is as per the approved Water Quality Management Plan required under the EPBC Act conditions of approval.
2. The department was consulted on the Queensland Governments proposed changes to the State definition of wet and dry seasons.
3. Yes.
4. The department understands that Gladstone Ports Corporation (GPC) commenced collecting baseline water quality data for the wet season on 20 November 2009 and that the State authority reflected this in their Environmentally Relevant Activity 16 (ERA 16) development approval. In subsequent years, the water quality data collection for the wet season commenced on 1 October, consistent with the Bureau of Meteorology's defined start date of northern Australia's wet season.
5. The current turbidity trigger levels regulated by the department are outlined in page 16 of the approved Water Quality Management Plan. The full plan can be found at:

<http://www.westernbasinportdevelopment.com.au/media/pdf/Water%20Quality%20Management%20Plans.pdf>
6. No, the department currently regulates the 80th and 95th percentiles of wet season and dry season trigger levels, the state regulates the 99th percentile of turbidity trigger levels of wet season and dry season trigger levels.

7. The 99th percentile is regulated by the State. The proponent, GPC, is responsible for the reporting to the Queensland Department of Environment and Heritage Protection (DEHP) on this trigger. GPC's reporting requirements to the department can be found in the Water Quality Management Plan on the following website:

<http://www.westernbasinportdevelopment.com.au/media/pdf/Water%20Quality%20Management%20Plans.pdf>.

8. The 99th percentile is regulated by the State. When there are exceedences of the commonwealth trigger levels, GPC is required to implement a number of management measures as well as convene meetings of the Dredge Technical Reference Panel to discuss turbidity management and corrective actions. GPC must also report exceedences to the department if the 95th percentile has exceedences that last over a week.

The department is consulted on measures implemented by the proponent, such as the voluntary implementation of a Turbidity Management Plan and a Transitional Management Plan, where the proponent is moving toward a light-based trigger approach to manage impacts on seagrasses.

9. As above.

10. The Queensland Government has undertaken fish health studies from the time that concerns were first raised in 2011. The department has reviewed the state commissioned studies and does not consider that matters of national environmental significance have been significantly impacted. The department understands that the state fish health surveys are indicating a return to baseline health of species in the harbour. Reports undertaken by the Queensland Department of Agriculture, Fisheries and Forestry (DAFF) can be found on the Queensland DAFF's website:

http://www.daff.qld.gov.au/28_20943.htm.

11. See the response to question 10.

12. Yes. The department considered this request and approved an amended *Environment Protection (Sea Dumping) Act 1981* Permit (Sea Dumping Permit) on 14 February 2012. GPC identified changes to Dredge Phase Area boundaries, changes in the disposal location (from onshore to offshore and vice versa) and changes in equipment types and methodology at a number of dredge zones. The variation request underwent careful consideration by the department, in addition to seeking independent expert advice, prior to granting approval.

- 13a. The allowable spoil volumes under the EPBC Act approval and Sea Dumping Permit remain the same at 11 million cubic metres of dredge spoil to be disposed at the east banks spoil disposal site.

- 13b. The approved east banks spoil disposal site and the western basin reclamation area did not alter their boundaries or capacity as a result of the variation.

- 13c. Condition 4 of the Sea Dumping Permit conditions was varied to state the following:

- *GPC must ensure that dredge material which is loaded and dumped comprises only up to 11 million cubic metres of capital seabed material as described in the Application and the variation requests dated 23 May 2011 and 16 December 2011.*

Condition 4 of the Sea Dumping Permit signed 22 October 2010 stated the following:

- *GPC must ensure that dredge material which is loaded and dumped comprises only up to 11 million cubic metres of capital seabed material as described in the Application.*

14. Yes.

15. The request to vary the Sea Dumping Permit variation was carefully considered by the department and reviewed by an external independent expert. On this advice, on 14 February 2012, the delegate approved the proposed changes as specified in the variation request.

16. There were areas which were identified to potentially contain Acid Sulphate Soils and were previously designated for onshore disposal that have been amended to be disposed at the offshore disposal site. There were also areas that required onshore dumping due to changes in dredge methodology wherein it was not practical to dispose material offshore.

To ensure that the allowable offshore spoil disposal limit is not exceeded, other dredge sites with suitable spoil material previously identified for offshore disposal are to be disposed at the western basin reclamation area. The proposed changes did not exceed the 11 million cubic metres allocated at the offshore disposal site specified under the Sea Dumping Permit or EPBC Act approval conditions.

17. This proposal was subject to a Controlled Action decision on 23 October 2012. The statutory assessment approach is by an Environmental Impact Statement.

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Program: Division or Agency: 5.2: EACD **Question No:** 152

Topic: Great Barrier Reef Strategic Assessment

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. According to document 1 in SEWPAC FOI release 040312, DRET was “working with companies and SEWPAC to mitigate the potential impact of the Strategic Assessment process on development”. What potential impacts were identified by DRET as requiring mitigation?
2. DRET met with SEWPAC regarding the Strategic Assessment on 24 January 2012 and 9 February 2012. Did any representatives of industry attend that meeting? If so, who?
3. Did the Minister attend those meetings?
4. Did any Departmental officials take notes at that meeting?
5. What representations regarding the Strategic Assessment were made by RET at those meetings?
6. What agreements were reached at those meetings?
7. What action points were agreed at those meetings?
8. What documents were tabled or distributed at those meetings?

Answer:

1. The document referred to in question 1 appears to be from a Freedom of Information release by the Department of Resources, Energy and Tourism rather than the Department of Sustainability, Environment, Water Population and Communities (the department). As the question concerns advice given by another department, this question may be better directed to Department of Resources, Energy and Tourism.
2. Industry representatives did not attend those meetings.
3. No.
4. No formal meeting notes were taken for either meeting.

5. Department of Resources, Energy and Tourism officials sought clarification on how strategic assessments were generally implemented under the *Environment Protection and Biodiversity Conservation Act 1999* and on the likely timing, progress and scope of the proposed Great Barrier Reef Comprehensive Strategic Assessment. Information was also provided by the department on the potential itinerary of the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Centre and the International Union for Conservation of Nature (IUCN) Reactive Monitoring Mission to the Great Barrier Reef on 6 to 14 March 2012.
6. None.
7. None.
8. A draft itinerary of the UNESCO World Heritage Centre and IUCN Reactive Monitoring Mission to the Great Barrier Reef on 6 to 14 March 2012 was tabled for information.

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Program: Division or Agency: 5.2: EACD **Question No:** 153

Topic: Olympic Dam expansion – provision of advice

Proof Hansard Page and Date Written

or Written Question:

Senator Edwards asked:

1. With reference to Question on Notice 7 (Families, Housing, Community Services and Indigenous Affairs Portfolio May Budget Estimates 2012, Outcome Number: Cross, Topic: EPBC Act, Hansard Page: 28/05/2012 – CA25), what advice did FaHCSIA provide SEWPAC on the Olympic Dam expansion?
2. If this advice cannot be made available, why?

Answer:

The Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) provided advice in relation to the draft Environmental Impact Statements required under the *Environment Protection and Biodiversity Conservation Act 1999*, during the assessment of the “Expansion of the Olympic Dam Copper, Uranium, Gold and Silver Mine EPBC 2005/2270”.

Advice provided to the Department of Sustainability, Environment, Water, Population and Communities (the department) by FaHCSIA related to its policy interest in ensuring long term sustainable benefits for Indigenous communities from native title agreement proceeds and consideration of broader economic benefits; and the National Partnership Agreement on Remote Indigenous Housing as relevant to Indigenous employment. This advice was part of an internal government information gathering process while drafting the Olympic Dam Expansion Assessment Report. The assessment report can be found on the department’s website.

The department has confirmed that FaHCSIA has also responded to this Question on Notice.

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Program: Division or Agency: 5.2: EACD **Question No:** 154

Topic: Port Alma

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. The UNESCO reactive monitoring mission made it clear in their June report to the WHC, that they do not consider Port Alma and the North of Curtis Island to be part of any “existing or long-established major port area within or adjoining the property”. Please list all ports the Department considers to be “existing or long-established major port area within or adjoining the property”.
2. Please advise the criteria used to determine the answer to (1).

Answer:

1. The Department of Sustainability, Environment, Water, Population and Communities refers you to the Great Barrier Reef Marine Park Authority’s Ports and Shipping Information Sheet – August 2012 which identifies all the trading ports within the Great Barrier Reef Region:
http://www.gbrmpa.gov.au/_data/assets/pdf_file/0009/26775/Ports-and-Shipping-Information-sheet-Aug-2012.pdf
2. The Great Barrier Reef Marine Park Authority’s delineation of major, medium and minor ports is based on several criteria including consideration of port infrastructure, size, operational capacity and throughput.

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Program: Division or Agency: 5.2: EACD **Question No:** 155

Topic: Threatened species – investigations and approvals

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. Provide the budget for investigations and enforcement of environmental conditions on environmental approvals.
2. What is the number of staff working on investigations and enforcement of environmental conditions on environmental approvals? How has staffing levels in investigations and enforcement changed over the last 5 years?
3. How many days/ year are spent on site visits by staff in compliance and enforcement, or consultants paid by the Department?
4. How many alleged, potential or actual breaches have been reported to the department in the last five years? Specify whether these have been reported either by the public, by proponents, or picked up through Departmental monitoring activities?
5. How many alleged, potential or actual breaches have been investigated?
6. How many have resulted in compliance proceedings (fines, prosecutions, remediation etc)?

Answer:

1. Budget:

In 2011/12, the Compliance and Enforcement Branch budget was \$4.2 million.

2. Staffing levels:

Full Time Equivalent (FTE) staffing levels for the Compliance and Enforcement Branch, as of the last pay period in each of the past five years, were as follows:

2007/08: 59.

2008/09: 52.

2009/10: 46.

2010/11: 44.

2011/12: 56.

3. Days spent on site visits by staff in compliance and enforcement, or consultants paid by the department:

2009/10: 97.

2010/11: 60.

2011/12: 82.

Note: Site visit figures are not available prior to 2009/10. Multiple sites can be visited during the course of one day.

4. *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) – reported incidents:

2007/08: 600.

2008/09: 522.

2009/10: 532.

2010/11: 466.

2011/12: 448.

Information about potential breaches of the EPBC Act come from a variety of sources, including ministerial or departmental correspondence, approvals monitoring, individual approaches to assessment or compliance officers by members of the public, EPBC compliance email and 1800 number, media reports, Local Government and State agencies.

The incident statistics are not compiled in such a way that the department can specify the source of the reported incidents.

5. EPBC Act - investigated incidents:

All alleged, potential or actual reports of potential breaches of the EPBC Act are investigated. The extent of an investigation depends on the likelihood that the alleged action(s) resulted or will result in a significant impact on a matter of national environmental significance.

6. There have been 231 compliance outcomes for the last five years, consisting of:

Compliance action led to a referral for consideration under the EPBC Act: 187.

Enforceable undertakings: 14.

Remediation determinations: 4.

Court injunctions to prevent further clearing: 1.

Civil court actions for land clearing: 3.

Civil court action for taking an action inconsistent with a particular manner requirement: 1.

Conservation agreement: 1.

Criminal prosecution related to commencing an action before a decision on referral: 2.

Infringement notice: 12.

Environmental audits of approval conditions: 3 (and 1 pending).

Suspension and later revocation of approval: 1.

Variation to conditions to include funding for reparations: 2 (and 1 pending).

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Program: Division or Agency: 5.2: EACD **Question No:** 156

Topic: Yara Pilbara's compliance with EPBC

Proof Hansard Page and Date

or Written Question: Written

Senator Ludlam asked:

1. How closely has the Department been monitoring Yara Pilbara's compliance with EPBC conditions for their new ammonium nitrate plant (Burrup Nitrates Pty Ltd) on the Burrup?
2. There is currently no independent monitoring system in place to measure the toxic emissions from plants such as Burrup Fertilisers, the N-W Shelf Joint Ventures, Woodside's Pluto plant and the pending Burrup Nitrates plant. What action will the Minister take to speed up the process of re-instating the monitoring program.
3. Can the Minister provide a response to the Assessment Report prepared by the Western Australian EPA on the Yara Pilbara ammonium nitrate plant which concluded emissions from the proposed plant were 'unlikely to have a significant impact on the rock art'.
4. Is the Minister aware the Assessment report is under dispute by the organisation Friends of Australian Rock Art (FARA) because, among other reasons, the air monitoring stations operated for just four years and were disbanded in 2010, and monitoring was done during periods when Burrup Fertilisers was non-operational.
5. Burrup Nitrates recently applied for a Section 18 of the *Aboriginal Heritage Act*. Can the Minister outline whether this will involve the removal / destruction of any Aboriginal rock art protected under National Heritage listing.

Answers:

1. The Department of Sustainability, Environment, Water, Population and Communities (the department) has an active monitoring program which includes monitoring inspections, desk top document reviews and audits. As part of this program the department undertakes ongoing review of the approval requirements for Burrup Nitrates Pty Ltd (BNPL) proposed technical ammonium nitrate production facility approval (EPBC 2008/4546), dated 14 September 2011.

The department is currently considering a number of management plans required by the project's approval.

2. When assessed under national environment law, each project is considered on a project-by-project basis. Where appropriate, conditions of approval will require management measures for toxic emissions that may result in significant impact on matters of national environmental significance.

BNPL's approval (EPBC 2008/4546) requires an air quality monitoring program in order to protect the values of the Dampier Archipelago (including Burrup Peninsula) National Heritage Place. The monitoring program requires collection of air quality baseline data for two years, and then five years of air quality monitoring once operations commence. The monitoring program is required to be undertaken by a suitably qualified air quality expert and is required to detect, manage and report emissions that may pose a threat to relevant matters of national environmental significance.

Woodside Energy Ltd's proposal to develop and operate the Pluto Gas Field (EPBC 2006/2968) was approved on 12 October 2007 with 14 conditions of approval. These conditions include the requirement to develop, have approved and implement management plans that will detect and where necessary, respond to toxic emissions.

Burrup Fertilisers Ammonia Plant (EPBC 2001/199) was determined not to be a controlled action on 2 April 2001, as the referred action was considered unlikely to result in a significant impact on matters of national environmental significance.

3. Assessment of proposed actions under national environment law assesses the likelihood of significant impact on matters of national environmental significance through a number of considerations. The Western Australia Environmental Protection Authority's (WA EPA) *Report and Recommendations for the Burrup Nitrates Pty Ltd Technical Ammonium Nitrate Production Facility* was considered by the Minister's delegate during the assessment of the proposed action under the EPBC Act.

A number of management plans and monitoring programs will require BNPL to closely monitor their impacts before and during operation of the technical ammonium nitrate production facility.

4. The approval of BNPL's proposed technical ammonium nitrate production facility has strict environmental conditions. Monitoring of air quality is required two years prior to operation to collect baseline data, and for five years during operations of the facility.

BNPL is required to undertake air quality monitoring at three sites that were previously used in the WA DEC/CSIRO air quality monitoring program. These sites will monitor levels of ammonia, nitrogen oxides, sulphur oxides and total suspended particulates.

5. Ministerial Consent under Section 18 of the *Aboriginal Heritage Act* is a matter for the Government of Western Australia's Department of Indigenous Affairs to consider.

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Program: Division or Agency: 5.2: EACD **Question No:** 157

Topic: EPBC Act – sea dumping

Proof Hansard Page and Date 99-100

or Written Question: (15/10/12)

Senator Siewert asked:

Senator SIEWERT: ...What happens to them afterwards?

Mr Cochrane: They are taken off to the deeper ocean and sunk.

Senator SIEWERT: Is a permit required for that?

Mr Cochrane: That is EPBC Act sea dumping matter. It is not something I am responsible for.

Senator SIEWERT: Okay. I doubt I am going to get a chance to ask all my questions in that particular section. Could I ask that they be taken on notice.

Mr Grimes: Certainly, Senator. We can confirm whether there were sea dumping permits there or not.

Senator SIEWERT: Thank you. Supplementary to that, are they all inspected and stripped of diesel and things like that before they are scuttled?

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Dr Grimes: We would have to take those details on notice. We are happy to do so.

Answer:

1. 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, including dumping of vessels (with the exception of point 2 below).
2. In addition, the Sea Dumping Act 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 a human life or a vessel. In these circumstances, sea dumping permits are not required.
3. No sea dumping permits have been issued for the case-by-case disposal of irregular entry vessels at sea. The Department of Sustainability, Environment, Water, Population and Communities (the department) understands that such activities occur in accordance with relevant provisions of the *Customs Act 1901*.

4. Border Protection Command advises that all suspected irregular entry vessels are thoroughly searched prior to destruction. During this time any dangerous, hazardous or valuable items and evidence are removed and isolated. Large water containers and drums are holed to ensure they sink with the vessel. Fuels or accelerants are not removed from the vessel as they are consumed by fire in the destruction process. As these vessels are apprehended at the end of their voyage, there is often minimal diesel and cooking fuel left onboard.
5. Further questions regarding the inspection and stripping of vessels in these situations should be directed to the Border Protection Command and/or Australian Fisheries Management Authority.
6. To assist in future planning, Border Protection Command and the Australian Fisheries Management Authority submitted a permit application to dispose of multiple vessels at sea, if required, under the Sea Dumping Act. This permit application is currently being assessed by the department. The assessment of the permit application will consider suitability for ocean disposal and measures to prevent pollution of the sea.

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Program: Division or Agency: 5.2: RRT **Question No:** 158

Topic: EPBC Act – regulatory burden under approvals bilaterals

Proof Hansard Page and Date 18

or Written Question: (16/10/12)

Senator Waters asked:

Senator WATERS: ...My question is: what evidence is there that there is a regulatory burden at all on industry in relation to the EPBC Act that would justify surrendering those powers under an approvals bilateral?

Dr Dripps: I would appreciate the opportunity to take that question on notice.

Senator WATERS: Perhaps you could take on notice whether the department or the government is doing any of that work to assess whether there is in fact a regulatory burden. That would be great.

Answer:

The Department of Sustainability, Environment, Water, Population and Communities (the department) has in place mechanisms to reduce the risk of duplication in environmental assessment processes. There are, however, a number of published reports that highlight the inefficiencies that potentially result from perceived overlap and duplication between the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) and State and Territory environmental legislation. These include:

- Australian Government Productivity Commission (2007), *Annual Review of Regulatory Burdens on Business: Primary Sector*, Research Report, Canberra. <http://www.pc.gov.au/projects/study/regulatoryburdens/primarysector/?a=74115>
- Australian Government Productivity Commission (2009), *Review of Regulatory Burden on the Upstream Petroleum (Oil and Gas) Sector*, Research Report, Melbourne. http://www.pc.gov.au/__data/assets/pdf_file/0011/87923/upstream-petroleum.pdf
- Australian Government Productivity Commission (2011), *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessment*, Research Report, Canberra. <http://www.pc.gov.au/projects/study/regulation-benchmarking/planning/report>
- Australian Government Productivity Commission (2012), *COAG's regulatory and Competition Reform Agenda: A High Level Assessment of the Gains*, Research Report, Canberra. <http://www.pc.gov.au/research/commission/regulatory-competition-reform>

- Department of Sustainability, Environment, Water, Population and Communities (2011). *Cost Benefit Analysis – Reforms to Environmental Impact Assessments under the Environment Protection and Biodiversity Conservation Act 1999*, Final Report, Canberra. <http://ris.finance.gov.au/files/2011/09/EPBC-Act-Environmental-Impact-Assessment-CBA.pdf>
- Department of Sustainability, Environment, Water, Population and Communities (2011). *Response to the Review of the EPBC Act – Regulation Impact Statement*, Final Report, Canberra. <http://ris.finance.gov.au/files/2011/09/EPBC-Review-RIS.pdf>
- Hawke, A. (2009), *Independent Review of the Environment Protection and Biodiversity Conservation Act 1999*, Final Report, Canberra. <http://www.environment.gov.au/epbc/review/publications/final-report.html>

The Australian Government Productivity Commission, the department and the Independent Review of the EPBC Act have each produced reports which discuss the potential and/or perceived risk of inefficiencies associated with the operation of the EPBC Act and the impacts of these on business and the economy as a whole.

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Program: Division or Agency: EACD **Question No:** 159

Topic: Offset policy – seagrass beds

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

1. During October Estimates hearings, the Chair of the GBRMPA identified the monies to be paid to GBRMPA as conditions of approval of the GVK mine as part of the Government's offset policy. According to the Government's offset policy, offsets must be "informed by scientifically robust information". What scientific information was the basis for the seagrass offset condition in the T3 approval?
2. Please describe how this satisfies the Government offset policy in light of the fact that seagrass beds within the GBRWHA are already nominally protected by virtue of their location within a World Heritage Area?
3. Please describe how the biodiversity offsets will satisfy the Government offset policy in light of existing protections for biodiversity in the GBRWHA?

Answer:

1. In determining the seagrass related offsets condition the Minister drew on information in the Preliminary Documentation that estimated the area of impact and possible cumulative and consequential impacts associated with the Terminal 3 development.
2. The Australian Government's environmental offsets policy applies to offsetting requirements in terrestrial and aquatic (including marine) environments. The conditional approval requires the proponent to develop a detailed Seagrass Offset Plan. The extent to which the government's environmental offsets policy is satisfied will be accurately specified when Hancock Coal Infrastructure Pty Ltd (the proponent undertaking the action) submits the draft Seagrass Offset Plan for Ministerial approval.
3. The Biodiversity Offset Strategy, that must be submitted by Hancock Coal Infrastructure Pty Ltd for the Minister's approval, is required to ensure better protection of *Environment Protection and Biodiversity Conservation Act 1999* listed threatened species and communities. The offsets to be secured are to be managed for environmental gain and protected by a covenant until 2073. These requirements are consistent with the government's environmental offsets policy.

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Program: Division or Agency: 5.2: RRT **Question No:** 160

Topic: COAG communiqué – reducing red tape

Proof Hansard Page and Date Written

or Written Question:

Senator Waters asked:

The COAG communique in April 2012 agreed to a series of steps designed to reduce the regulatory burden on industry. Best practice according to COAG begins by “establishing a case for action before addressing a problem.”

1. Please summarise the available evidence demonstrating:
 - a. There are unnecessary and duplicative environmental regulations imposed on industry;
 - b. These regulatory burdens do not provide any environmental outcomes;
 - c. These regulatory burdens impose additional costs on industry;
 - d. Which environmental regulations have been identified as ‘cumbersome’ and what criteria is used for identifying cumbersomeness;
2. Identify the justification for streamlining major developments by identifying:
 - a. The delays to major projects caused as a result of failure by the Government to meet regulatory deadline
 - b. Identify the costs to industry associated with those delays.
3. Identify the criteria that will be used to identify ‘low risk, low impact developments’
4. What is considered to constitute an ‘improved assessment processes’?
5. Identify data or studies that demonstrate that assessment processes are in need of improvement and the types of ‘improvements’ that are needed.
6. When did the Department first receive a copy of the Business Council of Australia’s discussion paper for the COAG Business Advisory Forum in April 2012?
7. Did the Department undertake any analysis of the claims in this paper prior to the Business Advisory Forum on 12 April 2012?
8. Has the Department undertaken any analysis of the claims in this paper at any stage since receiving this document? If yes, please outline the findings of this analysis

Answer:

1a. The June 2012 Productivity Commission Research Paper entitled *COAG's Regulatory and Competition Reform Agenda: A high level assessment of the gains* provides a summary of issues. The June 2012 Productivity Commission Research Paper is available online at the following link: <http://www.pc.gov.au/research/commission/regulatory-competition-reform>

1b. The Council of Australian Governments (COAG) processes are exploring the extent to which single approval systems and other mechanisms can be developed to more efficiently yield the requisite environmental outcomes.

1c. There are two independent reports that include analysis of the time delays and associated costs for environmental approvals under the EPBC Act. These are entitled:

- *Cost Benefit Analysis – Reforms to Environmental Impact Assessments under the EPBC Act*, Deloitte Access Economics, 20 April 2011; and
- *Cost benefit analysis of EPBC strategic assessments*, Access Economics, 7 March 2011.

Both cost benefit analysis reports have been made publicly available on the Department of Finance and Deregulation Website: <http://ris.finance.gov.au/2011/09/12/response-to-the-review-of-the-epbc-act-%E2%80%93-regulation-impact-statement-%E2%80%93-department-of-sustainability-environment-water-population-and-communities/>

1d. As stated in the communiqué from the Council of Australian Governments Meeting on 13 April 2012, COAG agreed to progress six priority areas for major reform to lower costs for business and improve competition and productivity.

2a. In accordance with section 516 of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the Department of Sustainability, Environment, Water Population and Communities (the department) publishes annual reports that include information on the operation of the EPBC Act. As required, the reports include statistics on the operation of the EPBC Act, particularly compliance with statutory timeframes. These reports are available on the department's website:
<http://environment.gov.au/about/publications/annual-report/index.html>

2b. The Deloitte Access Economics cost benefit analysis report (identified in response to question 1.c.) provides information about project costs associated with time delays.

3. One of the priority areas for major reform identified in the 13 April 2012 COAG Communiqué is improving assessment processes for low risk, low impact developments. In the context of the 13 April 2012 COAG Communiqué and the EPBC Act, low risk, low impact developments are considered to be those developments that are unlikely to have a significant impact on a matter of national environmental significance. The specific criteria outlining whether or not an action may have a significant impact on a matter of national environmental significance are detailed in the documents entitled:

- *EPBC Act policy Statement 1.1 Significant impact guidelines - matters of national environmental significance*; and
- *EPBC Act policy Statement 1.2 Significant impact guidelines - actions on, or impacting upon, Commonwealth land and actions by commonwealth agencies*.

Both policy statements are available on the department's website at:
<http://www.environment.gov.au/epbc/guidelines-policies.html>.

4. One of the priority areas for major reform identified in the 13 April 2012 COAG Communiqué is improving assessment processes for low risk, low impact developments. Improved assessment processes in this context are those that efficiently identify where a project is not subject to the EPBC Act and only requires state approval. Other regulation reforms may be required in State and Territory systems.
5. On 31 October 2008 the Minister for the Environment, Heritage and the Arts commissioned an independent review of the EPBC Act, which was undertaken by Dr Allan Hawke. The Final Report was delivered to the Minister on 30 October 2009 and publicly released on 21 December 2009. The report provides a suite of recommendations to build on the framework of the EPBC Act, including recommendations for improving assessment processes. On 24 August 2011, the *Australian Government response to the independent review of the EPBC Act* was released as part of a broad package of reforms for Australia's national environment law.
6. The Discussion Paper for the COAG Business Advisory Forum was made available on the Business Council of Australia website on 10 April 2012.
7. No.
8. No.

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Program: Division or Agency: 5.2: SSD **Question No:** 161

Topic: Response to 2003 Senate
Committee Report

Proof Hansard Page and Date 11-12

or Written Question: (16/10/12)

Senator Ludlam asked:

Senator LUDLAM: ...Can I ask you to take notice any specifics you can provide, listed by recommendation, that your office is involved with or has been involved with since that report was tabled? For some context, it is my belief that that report has been almost entirely disregarded, that those recommendations have not been taken up at all by anybody. If you have a different view, could you provide us—I will put this to the minister in a moment because I recognise some of these are not in your domain—with any evidence at all from the OSS's point of view that any of those recommendations have been taken up?

Mr Hughes: Did you have any specific recommendations that you would like to discuss?

Senator LUDLAM: All of the recommendations in that report that relate to Kakadu. It was a comprehensive piece of work.

Mr Hughes: We will need to take that on notice.

...

(Page 12)

Senator LUDLAM: Understood. Good morning, Minister. Some of this is out of Mr Hughes's bailiwick. Concerning the 2003 recommendations of the Senate environment committee inquiry into uranium mining in Australia, can I get a reading from the environment minister, through you, as to which of those recommendations have been disregarded and which were acted upon in the nine years since the report was tabled?

Senator Conroy: I am happy to chase up to see what the government's response was and then where our government response is. I am happy to take that on notice for you, Senator Ludlam.

Answer:

The Senate Environment, Communications, Information Technology and the Arts References Committee's 2003 report: Regulating the Ranger, Jabiluka, Beverley and Honeymoon uranium mines was overtaken by the previous government's response to the House of Representatives Standing Committee on Industry and Resources report: Australia's uranium: Greenhouse friendly fuel for an energy hungry world, tabled on 29 March 2007.

However, a number of the recommendations from the 2003 report have been addressed by Ranger uranium mine regulatory arrangements and associated institutional, monitoring and reporting activities implemented since that time. These include:

- Representation of Mirrar interests through the membership of the Gundjeihmi Aboriginal Corporation on the Ranger and Jabiluka Minesite Technical Committees (Recommendation 1).
- Development of a Mining Management Plan for Ranger which is subject to annual review by stakeholders (Recommendation 2).
- The roles and responsibilities of the relevant government parties are clearly defined under the current Working Arrangements, and associated compliance (enforcement) and information policies and procedures are in place (Recommendations 2, 3 and 4).
- Energy Resources of Australia Limited (ERA) environment management systems at Ranger are ISO 14001 certified (Recommendation 5).
- The Supervising Scientist's Division undertakes continuous monitoring and public reporting of surface water quality data during the wet season and ERA undertakes extensive groundwater modelling and monitoring, including around Pit#1 and the Tailings Storage Facility (Recommendations 6, 9 and 11).
- The Alligator Rivers Region Technical Committee reviews the appropriateness and quality of scientific research informing current regulatory processes, as well as operational, rehabilitation and closure planning at Ranger (Recommendation 10).
- There is increasing research focus on the efficiency and use of wetland filters at Ranger during the operational and post closure phases (Recommendation 12).