

RESPONSE TO THE INTERIM REPORT SURVEY

Note: Responses were automatically limited to 255 characters unless otherwise indicated

Name

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Do you give permission for your submission to be published?

Yes - with my name and organisation

NATIONAL LEVEL PROTECTION AND CONSERVATION OF THE ENVIRONMENT AND ICONIC PLACES

Legally enforceable National Environmental Standards should be the foundation for effective regulation. The Standards should focus on outcomes for matters of national environmental significance, and the fundamentally important processes for sound and efficient decision-making. Standards will provide certainty—in terms of the environmental outcomes the community can expect from the law, and the legal obligations of proponents.

Strongly disagree

The circumstances of each controlled action proposal are different. It is naive to think that Standards can be created that apply to all threatened species/communities in each different environment and in each different development proposal

The goal of the EPBC Act should be to deliver ecologically sustainable development. The Act should require that National Environmental Standards are set and decisions are made in a way that ensures it is achieved. The Act should support a focus on protecting (avoiding impact), conserving (minimising impact) and restoring the environment.

Strongly disagree

The current Act allows evaluation of ecologically sustainable development and National Standards (a) are not needed to do this and (b) wont work (see above).

A greater focus on adaptive planning is required to deliver environmental outcomes. Regional plans should be developed that support the management of cumulative threats and set clear rules to manage competing land uses at the right scale.

Disagree

Regional land use planning is a State matter.

Strategic national plans should be developed for big-ticket, nationally pervasive issues such as the management of feral animals or adaptation of the environment to climate change. These plans should guide the national response and enable action and investment by all parties to be effectively targeted and efficient.

Disagree

There are already a plethora of these types of strategies (e.g. Australian Weeds Strategy, National Climate Resilience and Adaptation Strategy) which have limited utility when assessing controlled action proposals. Having more strategies won't alter that.

INDIGENOUS CULTURE AND HERITAGE

The National Environmental Standards should include specific requirements relating to best practice Indigenous engagement, to enable Indigenous views and knowledge to be incorporated into regulatory processes.

Not applicable

no comment

The national level settings for Indigenous cultural heritage protection need comprehensive review. This should explicitly consider the role of the EPBC Act in providing protections. It should also consider how comprehensive national level protections are given effect, including how they interact with the development assessment and approval process of the Act.

Not applicable

no comment

Indigenous knowledge and western science should be considered on an equal footing in the provision of formal advice to the Environment Minister. The proposed Science and Information Committee should be responsible for ensuring advice incorporates the culturally appropriate use of Indigenous knowledge.

Disagree

Decisions should be based only on quality of knowledge, regardless of its origins.

Where aligned with their aspirations, transition to Traditional Owners having more responsibility for decision-making in jointly managed parks. For this to be successful in the long term there is a need to build capacity and capability, so that joint-boards can make decisions that effectively manage risks and discharge responsibilities.

Not applicable

no comment

Improved outcomes for Indigenous Australians will be achieved by enabling co-design and policy implementation.

Not applicable

no comment

The role of the Indigenous Advisory Committee should be substantially recast as the Indigenous Knowledge and Engagement Committee, whose role is to provide leadership in the co-design of reforms and advise the Environment Minister on the development and application of the National Environmental Standard for Indigenous engagement.

Not applicable

no comment

LEGISLATIVE COMPLEXITY

In the short-term, legislative amendments to the EPBC Act are required to address known inconsistencies, gaps, and conflicts in the Act.

Disagree

he Interim Report did not identify specific "known inconsistencies, gaps, and conflicts in the Act". So how can one comment?

In the longer-term, a comprehensive redrafting of the Act (or related Acts) is required. This should be done following the development of the key reforms proposed by this Review. This sequencing will ensure that legislation is developed in a way that supports the desired approach, rather than inadvertently hindering it.

Disagree

The central theme is the creation on National Standards which are to apply to every place and every situation. This is very naive (see other comments).

Redrafting could include consideration of dividing the Act—such as creating separate pieces of legislation for its key functional areas.

Not applicable

No Comment

EFFICIENCY - REMOVING DUPLICATION

Devolve decisions to other jurisdictions, where they demonstrate National Environmental Standards can be met.

Not applicable

Approval bilaterals are very overdue, but "National Standards" are not the vehicle (see other comments about their deficiency).

To base devolution on sound accreditation, quality assurance and compliance, escalation (including step-in capability) and regular review.

Agree

no additional comment

Assessment pathways should be rationalised and implemented with clear guidance, modern systems and appropriate cost recovery. Small investments can dramatically reduce cost and uncertainty and improve decision-making.

Agree

There are far too many trivial and needless referrals. Provide guidance on thresholds for referrals.

These, and other reform directions proposed (National Environmental Standards, regional plans, information and data, modern regulatory systems) create opportunities for significant streamlining and efficiency, including where low risk actions will not require approval.

Disagree

National Standards wont work. Just provide clear guidance on thresholds for referrals

Streamline provisions for permitting of wildlife trade and interactions with other environmental frameworks.

Not applicable

no comment

TRUST IN THE EPBC ACT

Improve community participation in decision-making processes, and the transparency of both the information used and the reasons for decisions.

Disagree

There is already adequate provision for community participation (especially on high profile projects).

Provide confidence that decision-makers have access to the best available environmental, cultural, social and economic information.

Not applicable

no comment

Amend the settings for legal review. While retaining extended standing, provide for limited merits review for development approvals. Legal challenges should be limited to matters of outcome, not process, to reduce litigation that does not have a material impact on the outcome.

Not applicable

Note, survey did not allow comment on "Strongly disagree". Merits review will increase approval times significantly. Merits review adds 12.6 months to existing 23.1 month application period in NSW (see page 101 of reference 105 in Interim Report).

DATA, INFORMATION AND SYSTEMS

A national 'supply chain' of information is required so that the right information is delivered at the right time to those who need it. This supply chain should be an easily accessible 'single source of truth' on which the public, proponents and governments can rely.

Disagree

This is a very naive view. Australia is vast and very varied. The people with the best understanding of the environment where proposed actions are to take place are the Proponents as they have a need to study.

To deliver an efficient supply chain, a clear strategy is needed so that each investment made contributes to building and improving the system over time.

Disagree

Its not going to happen. A "national custodian", a keeper of the knowledge, is impractical. Just make the assessments on which EPBC Act decisions are made public.

A custodian for the national environmental information supply chain is needed. The Commonwealth should clearly assign responsibility for national level leadership and coordination. Adequate resources should be provided to develop the systems and capability that is needed to deliver the evidence base for Australia's national system of environmental management.

Disagree

See above. This is a naive view of how knowledge is disseminated.

A National Environmental Standard for information and data should set clear requirements for the provision of data and information in a way that facilitates transparency and sharing. The standard should apply to all sources of data and information, including information collected by proponents.

Disagree

See above

To apply granular standards to decision-making, Government needs the capability to model the environment, including the probability of outcomes from proposals. To do this well, investment is required to improve knowledge of how ecosystems operate and develop the capability to model them. This requires a complete overhaul of existing systems to enable improved information to be captured and incorporated into decision-making.

Disagree

This is a naive view. "Government needs the capability to model the environment...". Ecological systems are too complex and "garbage in garbage out" result.

MONITORING, EVALUATION AND REPORTING

A coherent framework to monitor and evaluate the effectiveness of the EPBC Act in achieving its outcomes and the efficiency of its implementation should be developed. The framework must be backed by a commitment to its implementation.

Not applicable

A revamp of national SoE reporting should incorporate trend analysis and address future outlooks to provide the foundation for national leadership on the environment.

Not applicable

no comment

National environmental economic accounts will be a useful tool for tracking Australia's progress to achieve ecologically sustainable development (ESD). Efforts to finalise the development of these accounts should be accelerated, so they can be a core input to SoE reporting.

Not applicable

no comment

RESTORATION

The EPBC Act should require offsets to be considered only when options to avoid and then mitigate impacts have been actively considered, and demonstrably exhausted.

Agree

This is the existing state of affairs. A significant residual impact requires an offset.

The EPBC Act should require offsets, where they are applied, to deliver protection and restoration that genuinely offsets the impacts of the development, avoiding a net loss of habitat.

Agree

This is the existing state of affairs. A significant residual impact requires an offset.

The EPBC Act should incentivise investment in restoration, by requiring decision-makers to accept robust restoration offsets, and create the market mechanisms to underpin the supply of restoration offsets.

Agree

This can happen now but is uncommon because the inflexibility of the imposed offset arrangements.

There are opportunities for government to explore policy mechanisms to accelerate environmental restoration including those to leverage the carbon market, which already delivers restoration, to deliver improved biodiversity in suitable habitat types.

Agree

This can happen now but is uncommon because the inflexibility of the imposed offset arrangements.

There are opportunities for government to explore policy mechanisms to accelerate environmental restoration including those to co-invest with the philanthropic and private sectors, including funding innovation to bring down the cost of environmental restoration, growing the habitat available to support healthy systems.

Agree

It is possible, but only if strict "like for like" offset conditions are relaxed.

COMPLIANCE, ENFORCEMENT AND ASSURANCE

Establish a modern, independent regulator responsible for monitoring, compliance, enforcement and assurance to be a strong cop on the beat.

Strongly disagree

"Independent regulators" are in fact accountable to nobody. The Department has all the powers needed already

Increase the transparency of activities.

Disagree

The process is already has public input and is transparent.

Effectively draw on Standards, simplified law, and better systems to increase compliance and simplify enforcement and assurance.

Disagree

See earlier comment about the naive belief that "Standards" will solve problems.

Shift focus toward assurance of devolved decision-making and monitoring, compliance and enforcement of national strategic plans, regional plans, offsets and regeneration.

Not applicable

Devolve decision making to the States

Provide the regulator with a full suite of modern regulatory monitoring, compliance, enforcement and assurance tools and adequate funding.

Not applicable

It is not clear what is meant by the "full suite of modern regulatory monitoring, compliance, enforcement and assurance tools". This is an example to statement that has no value because it is so vague.

PROPOSED REFORM PATHWAY

Do you broadly agree with the phased approach proposed by the Review?

Disagree

The overall thrust of the Interim report is naive and, if pursued, is likely to create a bit of a mess.

BROADER VIEWS (no character limit)

What has been missed?

The Review has missed the opportunity to include a practising ecologist with EPBC Act controlled action experience in the review team.

How could the proposed reform directions be improved?

See below

Are there fundamental shortcomings that would require the Reviewer to rethink?

Yes, the naive view that National Standards are a panacea.

