



Environment Institute
of Australia and
New Zealand Inc.

15 April 2025

Astrid Puentes Riaño
Special Rapporteur on the human right to a healthy environment
Via email

Dear Ms Riaño,

RE: Environmental impact assessments, strategic environmental impact assessments and the right to a clean, healthy and sustainable environment

Thank-you for the opportunity for the Environment Institute of Australia and New Zealand (EIANZ) to provide inputs on your thematic report: *Environmental impact assessments, strategic environmental impact assessments and the right to a clean, healthy and sustainable environment*. This submission has been developed by our Strategic Environmental Assessment Community of Practice (SEA CoP).

The EIANZ is a non-profit, multi-disciplinary association of environmental practitioners. Its membership is represented by a diverse range of technical disciplines including scientists, policy makers, engineers, lawyers and economists. We advocate for environmental knowledge and awareness and advancing ethical and competent environmental practice.

The SEA CoP sits within EIANZ's Impact Assessment Special Interest Section. It seeks to:

- share knowledge and experience of strategic approaches/SEA in the Australian/Aotearoa New Zealand context
- build a basic understanding of strategic approaches and SEA as terms and concepts with good practice examples
- identify potential champions for strategic approaches in government and the private sector
- highlight where there may be upcoming opportunities for a more strategic approach in planning, impact assessment and/or decision-making
- establish a 'community of practice' for strategic approaches to impact assessment.

We hope the information and links provided below assist you in preparing the current thematic report. We have focused on Australian practice, though for more details on New Zealand's approach to IA please see the New Zealand Association for Impact Assessment website [here](#), and Ministry for the Environment insights into reform of the resource management system which guides IA [here](#). We would be pleased to provide additional information, if helpful.

Yours sincerely,

Ailsa Kerswell
Chair, SEA CoP.

Suite 3, 255 Whitehorse Road, Balwyn, Vic 3103
Tel: + 61 3 8593 4140 (AUS) | +64 9887 6972 (NZ)
office@eianz.org | www.eianz.org
ABN 39 364 288 752 | NZBN: 9429041314777

Key questions and types of input/comments sought			
	The Special Rapporteur welcomes inputs regarding the following themes:	National – Australia	Regional / State level within Australia
1	Information regarding existing regulation of environmental impact assessments and strategic environmental assessments , including in relation to:	The Commonwealth government plays a role through national legislation (primarily the <i>Environment Protection and Biodiversity Conservation Act 1999</i>) (EPBC), particularly for matters of national environmental significance (MNES ¹).	Australia's federal system of government has resulted in a complex landscape for impact assessment (IA). Responsibility for planning, environmental protection, and IA resides with the six states and two territories, each with its own approach. This federated structure has led to the development of nine different planning and IA systems across Australia - one for each state and territory, plus the Commonwealth.
1a	If and how climate change is considered, especially regarding scope 1, 2 and 3 emissions, if these are taken into account and how it is done so;	Assessment of the impacts of climate change to MNES are required in most assessments. There have been numerous legal challenges about the extent to which climate change impacts should be grounds for refusal of projects and to-date these have not been successful. Rather, proponents are required to report on the scope 1,2,3 emissions of projects, but this is for information only.	This varies per State and Territory, which operate their own systems as noted above. Relevant weblinks including to applicable guidance (and standards) for each follow: • Western Australia – https://www.epa.wa.gov.au/about-environmental-impact-assessment • Northern Territory – https://ntepa.nt.gov.au/your-business/environment-impact-assessment • South Australia – https://plan.sa.gov.au/development_applications/state_development/impact-assessed-development • Tasmania – https://epa.tas.gov.au/business-industry/assessment • Victoria – https://www.planning.vic.gov.au/environmental-assessments/environmental-assessment-guides/environment-effects-statements-in-victoria • NSW – https://www.planning.nsw.gov.au/assess-and-regulate/development-assessment/environmental-impact-statement-guidelines • ACT – https://www.planning.act.gov.au/applications-and-assessments/environmental-impact-assessment • Queensland – https://www.qld.gov.au/environment/management/environmental/eis-process
1b	If an ecosystem-based approach is considered and how it is incorporated;	Partially, the EPBC Act focuses on MNES, which does include threatened ecological communities and places of international/national significance, for which 'the environment' of such places should be considered holistically.	
1c	If and how integral and cumulative impacts are featured in the assessment;	The EPBC Act does not include cumulative impacts under the definition of impacts in the Act, and this has been identified in both formal reviews of the Act as an omission. Most assessments are now required to consider cumulative impacts, however this is for information and not grounds for refusal or modification of projects.	
1d	The extent of consultation with and participation of affected persons and/or communities; and	Varies - typically set out in the EPBC Act 1999. See also guidance available here for community engagement. This includes information on consultation before referrals; on referrals, assessment documentation and management plans; and other public comment periods.	

¹ Which include world heritage properties, national heritage places, wetlands of international importance, nationally threatened species and ecological communities, migratory species, Commonwealth marine areas, the Great Barrier Reef Marine Park, nuclear actions (including uranium mining), and a water resource, in relation to coal seam gas development and large coal mining development.

1e	Requirements for public disclosure of assessment findings and conclusions.	Varies - typically set out in the EPBC Act 1999. See also guidance available here for engagement with communities.	
1f	Information regarding the State entity responsible for preparing or reviewing EIAs, and SEAs in cases where these are also requested.	Federal Environment Minister, where MNES are affected / potentially affected; on own or in conjunction with States and Territories. More details on the Commonwealth entity responsible is found here: https://www.dcceew.gov.au/about/who-we-are	Various government entities in each State and Territory are responsible – the above weblinks provide insight into each relevant Department. State entities are typically planning or environment departments in each region.
	Also please include information on:		
2	Mechanisms to identify and prevent conflicts of interests in the evaluation process.	There are numerous checks and balances in place to identify and minimise conflicts of interest. Generally, decision makers include government departments or independent panels. Where decisions are made by government Ministers, conflicts are made public via disclosure registers. There are also integrity authorities (e.g. NSW ICAC, Qld CCC) who are able to probe decision making, where corrupt practices are suspected.	
3	The required qualifications, expertise, and skill sets of those conducting the assessments.	The EPBC Act does not prescribe a minimum set of qualifications or expertise for those preparing assessments. Sometimes, project conditions of approval will require 'suitability qualified people' to undertake further ecological work. Typically in Australia, EPBC Act assessment are prepared by qualified ecological consultants, many of whom have some type of third party certification. An example of such certification is with the EIANZ. The EIANZ Certification process commenced in 2010. As at October 2024 there were 1,260 Certified Environmental Practitioners (IEMA, 2024, pp.25). Similarly, the Planning Institute of Australia (PIA) Registered Planner (RPIA) scheme commenced in 2016, building on a previous Certified Practising Planner scheme which commenced in 2006. As at 2024 there are ~800 RPIA members, a significant proportion of the ~6,000 membership of PIA. Discipline specificity through for example the EIANZ Social Impact Assessment certification is another leading example and reflects the deepening of aspects of IA practice. Indeed, the IA, environmental, and planning profession more broadly is diverse and is increasingly focused on engagement, communication, advocacy, advise and liaison activities in addition to the more typical impact	NSW stands out as somewhat of a leader with various notable initiatives. NSW is the only State which currently has requirements for those undertaking EIA to have certification. Both the EIANZ Certification and PIA RPIA schemes have relevance for IA practice, particularly through the NSW Registered Environmental Assessment Practitioners (REAP) scheme (REAP). For more on these schemes and current status of them please see IEMA articles here: https://www.iema.net/policy-and-practice/impact-assessment/outlook-journal/ particularly journal no.22 (focusing on Certification, pp.27-28)³ and 23 (international best practice in IA, December 2024). With the introduction of REAP, both PIA and EIANZ offer an assessment and accreditation process (see comments on National approach to the left), the former as part of the Registered Planner scheme (known as Registered Planner Plus (EIA) or RP+(EIA)). Noted benefits of the NSW REAP scheme include improved reliability and accountability of decisions makers, and enhanced confidence for the community in the robustness and rigour of assessments (Planning Institute of Australia, 2023). There is a stronger take up of the RPIA scheme as a proportion of PIA members in States with mandated accreditation (South Australia and NSW-REAP scheme).

³ IEMA. (2024). Impact Assessment Outlook Journal Volume 22: September 2024 Competency and Certification in Impact Assessment Thought pieces from UK and International practice. *Outlook Journal*. Retrieved from <https://www.iema.net/engage/policy-resource-hub/policy/impact-assessment/outlook-journal/>

		assessment activities of assessment, design/policy/planning, management, field work, monitoring and evaluation (Thomas, 2024 ²).	
4	Information concerning the existing national standards related to EIAs that are applicable to projects, including the ones applicable to projects financed by international finance institutions, conservation organizations, and other major funders. In case SEAs are requested, include existing standards for these.	The Environment Protection and Biodiversity Conservation (EPBC) Act 1999 is applicable, particularly Part 8 - Assessing Impacts of Controlled Actions (project-level Environmental Impact Statements - Division 6, s.101-105; and Part 10 - Strategic Assessment - Division 1 Strategic Assessment Generally (s.146), Division 2 Assessment of Commonwealth-managed fishers (s.147-154). See also https://www.dcceew.gov.au/environment/epbc The EPBC Act currently does not have prescribed environmental standards, however these have been proposed as part of legislative reform. More information: https://www.dcceew.gov.au/environment/epbc/epbc-act-reform/standards	See above in response to topics 1a-e. Note State and Territorial approaches to SEA vary significantly across the Country. This is detailed in e.g .Burdett and Cameron (2021)⁴ and Burdett (2024)⁵
5	Main challenges experienced by States, businesses and rightsholders concerning the adequate request, evaluation and implementation of EIAs, including: a) challenges to communicating assessment findings and conclusions with potentially impacted rightsholders and other interested members of the public, and b) challenges experiences by rightsholders in influencing assessment design, participating in assessments, and accessing assessment findings and conclusions. The Rapporteur especially welcomes data or studies illustrating the application of State exceptions that reduce assessment	The EPBC Act has been reviewed twice, and results of the second review can be found on the website here. This includes an overview of challenges including those that are applicable across all jurisdictions. Note the 2020 final report (Samuel 2020)⁶ set out a range of challenges faced by both the Commonwealth, and States and Territories, in implementing the EPBC Act 1999.	Each State and Territory has responsibility for review of its own regimes. Some notable examples of recent reviews which also set out various challenges including those faced by businesses and rightsholders can be found at the links below: • Victoria Auditor General Office (VAGO) review of the EIA legislation and regime – https://www.audit.vic.gov.au/report/effectiveness-environmental-effects-statement-process • Audit Office of NSW – various reports on EIA regime, implementation and effectiveness - https://www.audit.nsw.gov.au/search?keys=environmental+imp+act+assessment • QLD – various insights into EIA and its role including in major projects – see https://www.qao.qld.gov.au/ for more

² Thomas, I. (2024). Trends in the environment profession in Australia: a twenty-first century report. *Australasian Journal of Environmental Management*, 31(1), 83-107. doi:10.1080/14486563.2024.2326088

⁴ Burdett, T. and C. Cameron (2021). Strategic environmental assessment in Australia. *Handbook on Strategic Environmental Assessment*, T. Fischer and A. González. Cheltenham, Edward Elgar Publishing Ltd.

⁵ Burdett, T. (2024). "Impact assessment best practice in Australia." *Outlook Journal - International Best Practice in Impact Assessment* 23(December 2024).

⁶ Samuel, G. A. (2020). Independent Review of the EPBC Act – Final Report October 2020. W. a. t. E. Department of Agriculture, Commonwealth of Australia

	requirements, and practical consequences for environmental protection and violations of the right to a healthy environment.		
6	Examples of “best” practices of the implementation of assessments , including:		
7	If and how human rights impacts are considered in the assessment, including examples of EIAs and SEAs that substantively and effectively consulted Indigenous Peoples, women and girls, youth, people of African descent, small scale fisher communities, peasants or affected communities, consistently and comprehensively evaluated gender, culture, age, race, ethnicity or other differentiated impacts.	The various guidance documents referred to above contain some examples of how human rights impacts are considered in assessment. For engagement with First Nations People and referrals under the EPBC Act see here for insights on process and emerging National Environmental Standards.	Various State and Territory guidance documents set out how human rights should be considered in impact assessment. Specific guidance on engaging indigenous communities is found in some states including e.g.: - Victoria - https://www.firstpeoplesrelations.vic.gov.au/engaging-traditional-owners and examples of engagement strategies more broadly for these communities here: https://www.humanrights.vic.gov.au/for-individuals/aboriginal-community-engagement-strategy/ - NSW – practice notes on Social Impact Assessment include specific advice on engaging with indigenous communities – see here as an example.
8	Description of mechanisms to guarantee access to information, public participation and access to justice, including examples of EIAs and SEAs done in collaboration and with the participation of Indigenous Peoples, people of African descent, small scale fisher communities, peasants or other rural or urban communities. This includes examples that ensured that affected individuals and communities were notified of assessment outcomes.	All projects referred under the EPBC Act are made publicly available and any party is able to make comment. Projects that require further assessment also have mandatory public comment processes. All project approvals are made publicly available. Refer: https://epbcpportal.environment.gov.au/all-referrals/ Projects assessed under the EPBC Act are also required to demonstrate they have been consistent with <i>Guidance for proponents on best practice Indigenous engagement for environmental assessments under the EPBC Act (2016)</i>, updated guidance available here. To date, no SEAs in Australia have been undertaken in genuine collaboration with First Nations peoples, and their engagement in SEAs varies between assessments.	Similar to Commonwealth, most states have requirements for public consultation on major or state significant projects. The consultation requirements on other projects is variable and depends on the planning and assessment pathways and authorities (e.g. state vs local government). Public registers of project assessments and approval decisions are available for certain project types (variable across jurisdictions). For example: - WA – https://www.epa.wa.gov.au/ - QLD – https://www.statedevelopment.qld.gov.au/coordinator-general/assessments-and-approvals/coordinated-projects/current-projects - NT – https://environment.nt.gov.au/environment/environmental-assessment-and-approvals/environmental-approvals