Regulatory reform to enhance efficiency & effectiveness of Environmental Impact Assessment

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Overview

 The Australian Government is **streamlining environmental regulation** while maintaining environmental standards.

 Overview of the One Stop Shop reforms & progress to date:
   Approaches to streamlining to gain **greater efficiency** and **cost savings to business**
   **Risk-based** regulation and how we are applying this to **assessment bilateral agreements**
   **Outcomes based approvals** and **condition setting**; and
   **Getting your thoughts** on future opportunities
A quick summary of environmental regulation at the national level

- Proposed actions that are considered to have a **potential significant impact** require detailed assessment.

- **Assessment** – stand-alone Cth process or using State/Territory processes through an **assessment bilateral agreement**

- If the action is considered to have **acceptable impact**, the project will be approved and may be subject to conditions

- Secondary approvals and **compliance monitoring**

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The *Environment Protection and Biodiversity Conservation Act* (EPBC Act) protects **nine** matters of national environmental significance, which are based on Australia’s international obligations.
A recap of the One-Stop Shop reforms

The reform has two key outcomes:
- Reducing regulatory burden for business by removing the need for separate state and Commonwealth approvals.
- Maintaining environmental standards.

The reform is being delivered in three stages:
- MoUs with willing states and territories
- Assessment bilateral agreements
- Approval bilateral agreements
An effective regulatory system balances environmental, economic and community interests.

- Challenges to decisions resulting in legal and delay costs.
- Public discontent resulting in uncertainty for investment.

Duplication and excessive monitoring result in unnecessary costs without contributing to objectives.

Lack of confidence leads to:

'**Sweet spot**' of efficient and effective regulation

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Relative costs to business

- High
- Low

Environmental outcomes

- High
- Low

Level of regulation and assurance

- Low
- High
The Commonwealth has been increasing its role in assurance, reducing regulatory functions

**Environmental Standards**
- **States and territories**
  - State and territory environmental matters and policy
- **Commonwealth**
  - Matters of National Environmental Significance

**Regulation**
- **States and territories**
  - Whole of environment including MNES
- **Bilateral Agreements**
  - Co-regulation
- **Commonwealth**
  - Piloting “earned autonomy” approaches for non-bilateral projects:
    - Risk-based assessments
    - Outcomes-based conditioning

**Assurance**
- **States and territories**
  - Primary compliance and enforcement
- **Bilateral Agreements**
  - Scheduled reviews
- **Commonwealth**
  - MNES compliance and enforcement
  - Policy reviews (e.g. Water Trigger, Offsets)
  - Unscheduled audits (bilaterals)
Current status of the One-Stop Shop reforms

- **MoUs** signed with all States & Territories.
- **Assessment bilateral** agreements in place with all States & Territories.
- **Draft approval bilateral** agreements released for public comment – ACT, NSW, QLD, SA, TAS, WA
- **EPBC Act amendments** before the Senate
Supporting reforms – risk-based approaches & condition setting

- **Risk-based approaches** to assessments and post-approval monitoring.
- **Condition setting:**
  - Outcomes-based conditions
  - Reducing duplication with State/Territory conditions
- Other **streamlining** opportunities

What other opportunities are being explored to streamline assessments while maintaining standards?
Risk-based approaches

- Helps us **engage** with approval holders of high-risk projects at the **earliest possible stage** and encourage compliance at the outset.

- Can be updated with new information so compliance monitoring effort remains **appropriate and targeted** as projects progress and circumstances change.

- **Strategic monitoring effort** is directed to the projects and industry sectors that pose the greatest risk to the environment.

- Ensures our activities are **cost effective** and that we **reduce the regulatory burden** on projects that are low risk or people who consistently do the right thing.
NESTRA

- We are implementing the National Environmental Significance Threat and Risk Assessment (NESTRA) tool.
- NESTRA provides a transparent and repeatable method for justifying our degree of involvement, condition setting, monitoring and compliance approaches.
Condition setting policy

Hierarchy of condition setting options

Option 1: No conditions
- Where the Commonwealth is satisfied that the likelihood of unacceptable impacts on matters of national environmental significance is low.

Option 2: Single condition
- Where the Commonwealth considers that non-compliance with state conditions could potentially cause unacceptable impacts on matters of national environmental significance.

Option 3: Additional conditions
- Where the state recommends the Commonwealth attach conditions or where the Commonwealth considers the state conditions are not adequate to manage the impacts on matters of national environmental significance.

Decision point - including attaching approval conditions

Risk Assessment
Targeted outcomes

- E.g. Maintain viability of local Koala population compared to baseline information

Proxy outcomes

- E.g. No net loss of Koala habitat compared to baseline data

Limits & parameters

- E.g. Removal of no more than 10 ha of Koala habitat and offsetting residual impact

Processes & technologies

- E.g. Erecting fencing to protect 'no go zones' for Koala protection

Management planning

- E.g. Developing a plan for the management of impacts on Koalas

Overall outcomes for MNES

(e.g. Maintenance and improvement of national population of Koala)

Achieved through

- High Capability and willingness of proponent
- Low Risk to MNES
- High Certainty about outcomes
- Low Level of knowledge and information on MNES

Achieved through

Outcomes-based conditions approach
How else can we do our business better?

- Looking at all stages – pre-referral, referral, assessment and approval
- **Supporting** staff and delegates – reduce time spent on process means more time focusing on environmental outcomes
- **Embedding** reform policy into business as usual
- Supports the move from rules-based model to a **risk-based approach** to regulation, focusing on environmental outcomes
- **Simpler and quicker assessments** – less time wasted seeking information, consistent application of regulation and policies
- **Cost savings to business** – through clearer, up front guidance and support
- Working with **assessment teams, consultants** and **proponents** to realise opportunities for improvements
Where to from here?

- Further **streamlining** of environmental regulation and processes
- **Continuous improvement** through monitoring, review, consultation and adaptive management
- Cementing the oversight role of the Commonwealth through **providing policy advice and expert guidance** e.g. Offsets
- What can **EIA practitioners** bring to the table to support **streamlining** and **continuous improvement**???

Where to from here?
Questions?

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