

## Article Information

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## Federal Budget boost to streamline Environment Protection and Biodiversity Conservation Act approval timeframes and reforms

**Following the introduction of the Environment Protection and Biodiversity Conservation Amendment (Streamlining Environmental Approvals) Bill 2020 (the Bill) the Federal Government has announced key measures in the Federal Budget 2020-21 aimed at fast-tracking both Federal and State/Territory environmental assessment and approval procedures and undertaking further environmental reforms.**

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### Background

In late August 2020 the Bill was introduced into Parliament. The Bill proposes some key amendments to the processes under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (**the Act**), including:

- The removal of the requirement for referral to the Commonwealth where the action is in a class of actions declared by an approval bilateral agreement. This will make the State and Territory decision maker the only decision maker for a project covered by an approval bilateral agreement. The amendment would apply to actions that:
  - are being assessed;
  - are to be assessed; or
  - have been approved,

under an approval bilateral agreement.

- Allowing the Minister to declare actions to be excluded from an approval class of actions under an approval bilateral agreement;
- Removing the prohibition on States and Territories approving actions which come under the water trigger in approval bilateral agreements.
- Giving more flexibility to allow States and Territories to:
  - make minor amendments to assessment bilateral agreements without needing a new agreement (unless a material impact would result);
  - amend policy instruments more easily without needing a formal agreement;
  - under an accredited arrangement, appoint non-government bodies as expert bodies to approve actions, including local government; and
  - accredit processes outside of “laws” such as procedures and guidelines, recognising their role in environment impact assessment.

The Bill also proposes a new section 66A which will allow an action previously being assessed under a bilateral agreement that was suspended or cancelled, to still be referred to the Minister. The Minister will be able to make use of a completed, or partially completed, State or Territory assessment for the purposes of assessment and approval under the Act in such circumstances.

### Current Status

Since being introduced into Parliament on 27 August 2020 the Bill has progressed to a third reading (as the Bill was amended by the House) and on 6 October 2020 the Bill was introduced into the Senate.

The Minister has published notices of proposals to enter into approval bilateral agreements with the States and Territories.

### **Federal Budget 2020-21**

The Federal Government has announced that \$36.6 million, provided over two years from 2020-21, will be allocated to maintain the timeliness of environmental assessments and undertake further reforms of the Act, aiming to reduce the average environmental assessment decision times from an average of 3½ years to under 2 years for a given assessment. The fund also includes \$8.8 million over two years to expedite approvals for 15 major projects that are worth over \$72 billion to the economy, including:

- the “Steel Mississippi” Brisbane-Melbourne inland rail;
- the Marnus Link electricity interconnector between Tasmania and the mainland;
- the expansion of BHP’s Olympic Dam copper mine; and
- the Project EnergyConnect high voltage electricity interconnector between the power grids of South Australia and New South Wales.

### **Key takeaways**

- The Bill is now before the Senate.
- The Bill proposes to streamline environmental assessment and approval by avoiding duplication of Commonwealth and State/Territory processes.
- The Federal Budget has allocated funds to fast-track the environmental assessment for certain projects, and to undertake further reforms of the Act.
- Keep an eye out for new Regulations and the scope of the new approval bilateral agreements.

Please contact one of our team if you would like information on the Bill.