

Article Information

Authors: Kathryn Walker, Oliver Radan

Service: Environmental Compliance, Planning & Environment

Sector: Energy & Resources

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.

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.