



31 October 2019

Resources Sector Regulation
Productivity Commission

Submitted online: www.pc.gov.au/resources

Dear Sir/Madam,

Resources Sector Regulation – Issues Paper

Origin Energy Limited (Origin) welcomes the opportunity to provide comments on the Resources Sector Regulation - Productivity Commission Issues Paper.

Origin is a leading Australian integrated energy company supplying electricity to 4.2 million customers and developing and producing natural gas - a cleaner form of energy for customers in Australia and beyond. Through our Australia Pacific LNG joint venture we export LNG to China and Japan.

Origin also aspires to be the number one renewables company in Australia, by empowering our customers to reduce their carbon footprint through wind, solar and storage technology. Origin supports the international target to limit global warming to no more than 2°C and notes the strong intention of the Paris Agreement to pursue efforts to a 1.5°C scenario. In 2017, Origin became the first Australian company to set an emissions reduction target approved by the Science Based Targets initiative (SBTi). We have a formal, public commitment to halve our direct carbon emissions by 2032, off a 2017 reference year.

Our submission focuses on the upstream gas industry with comments regarding the application of the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) to the coal seam gas industry in Queensland in particular.

Our key points include:

- **Scope of review** – we generally agree with the current scope of the review but suggest that some project types such as power stations could be added to give further context.
- **Criteria for assessment** – we generally support the proposed criteria.
- **Feedback on regulator conduct** – we have included specific feedback on recent experiences under the EPBC Act. This includes issues with the water trigger and threatened species.

- **Approaches to regulator governance** – we provide some suggestions on how regulations dealing with groundwater assessment may be streamlined. Our experience is that the state-based regime has functioned relatively well.

Scope of review

Generally, the scope of the review is appropriate, however further consideration should be given to the regulation of large-scale power plants. While these projects fall outside of the scope, they may provide a useful comparison for some elements moving forward.

It may also be valuable to include a comparison of any predisposition around resource projects when compared to non-resource projects. There needs to be equal levels of assessment applied to all projects as they go through the assessment process. Specifically, using benchmarking and statistical analysis for Assessments across jurisdictions. For example, comparison of timeframes, public notifications and number of conditions would provide valuable insight. Specifically, in relation to the EPBC Act, comparison of number of matters triggered, offset ratio, and timeframes would be valuable.

Assessment criteria

Origin generally supports the proposed assessment criteria for best practice regulation which is contained in Table 1 (page 9) of the issues paper.

Feedback on regulator conduct

We provide three recent examples of how the Department of Environment and Energy has applied the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act). These examples include:

- uncertain/inconsistent outcomes under the ‘water trigger’ provisions of the EPBC Act;
- protracted processes regarding threatened species issues; and
- unnecessary costs and delays.

Uncertain/inconsistent outcomes under the ‘water trigger’ provisions of the EPBC Act

The water trigger under Section 24D of the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC Act) provides much uncertainty. This includes:

- through the determination of what activities are included in the assessments;
- through the Independent Expert Scientific Committee on Coal Seam Gas and Large Coal Mining Development (IESC) assessment of the projects; and
- inconsistencies with application by the Department when provided with similar material.

This was recently highlighted in two separate applications made by Origin under the EPBC Act in regard to the water trigger. Spring Gully (EPBC 2017-7881) and Alfredson (EPBC 2017-7902) projects both proposed similar activities and consistent information was provided as part of the preliminary information for both applications. 9 comments received from a total of 57 on the Alfredson project were inconsistent when compared to the assessment comments made on the Spring Gully material. These additional 9 comments were extremely onerous on the company and included further conditions around:

- brine management;
- CSG water re-use;

- drilling chemical risk assessments;
- landspray while drilling; and
- spill management.

Protracted processes regarding threatened species issues

Origin has experienced delays and inconsistent outcomes regarding threatened species issues under the EPBC Act.

An example of this inconsistency was evident in the Alfredson Block development (EPBC 2017-7902) where the assessment included the impacts to a land-based snail. This assessment and recommendations were a point of contention and debate until the project was approved on 2 September 2019. Through a review of the proposed approval recommendation report Attachment B Paragraph 67, it was shown that an independent expert assessment was sought on 29 March 2019 by the Department that was not communicated to Origin and it supported the proponents assessment of no significant impact was acceptable. This brings into question the decision making process which continued to raise this issue for a further 6 months.

There appears to be a lack of oversight around threatened species issues under the EPBC Act. Updating the Species Profile and Threat Database (SPRAT) with more quantifiable impact thresholds may remedy this. Furthermore, a management review of assessment outcomes to ensure consistency would be beneficial.

Unnecessary costs and delays

Spring Gully (2017-7881) and Alfredson (2017-7902) were two applications submitted for assessment at the same time. The Spring Gully project was a more complex assessment due to greater amount of threatened species assessment required for that location. In the final decision period both projects were longer than listed statutory timeframes and Alfredson project took longer than the Spring Gully project. See the table below for more information.

40BD Decision Period	Spring Gully (2017)		Alfredson	
	Prescribed	Actual	Prescribed	Actual
Final Decision Period commences	9 Jan 2019	9 Jan 2019	2 May 2019	2 May 2019
Ministerial Review Period commences	7 Feb 2019	13 Mar 2019 <i>24 BD late</i>	30 May 2019	5 August 2019 <i>47 BD late</i>
Ministerial Review Period ends	21 Feb 2019	27 Mar 2019 <i>24 BD late</i>	13 June 2019	19 August 2019 <i>47 BD late</i>
Decision	6 Mar 2019	15 Apr 2019 <i>28 BD late</i>	1 July 2019	2 Sept 2019 <i>44 BD late</i>

In addition to excessive delays in decisions, many of the EPBC approval conditions require a variation process to make them fit for purpose. The variation of these conditions has no statutory timeframes, making assessment timeframes very uncertain. Furthermore, conditioned management plans requiring approval through the post approval process do not have statutory timeframes. This makes it difficult to provide any business confidence around project commencement, budgets and compliance requirements.

A suggested solution is amending section 518 of the EPBC Act to enable automatic approval for lapsed applications. The amendment could include a special approval from the departmental to extend a timeframe once, for a pre-determined timeframe for complex or publicly sensitive projects. This would enable more difficult projects the additional time they require, while allowing standard applications to be assessed in a timely and efficient manner.

Approaches to regulator governance

In Queensland the Underground Water Impact Report (UWIR) prepared by the Office of Groundwater Impact Assessment (OGIA) for the Surat Cumulative Management Area provides evidence based scientific assessment of the groundwater impacts from petroleum and gas operations in the Surat and southern Bowen basins. It also establishes:

- strategies to manage the predicted impacts
- responsibilities for implementing various aspects of the strategies.

The EPBC Act water trigger duplicates much of this process for the Coal Seam Gas industry and should defer assessment of these values to the state process or accept the findings, responsibilities and strategies of the UWIR in their assessment.

Additionally, as groundwater management plans are duplicated across state and federal jurisdictions, it can lead to compliance uncertainty where there are two jurisdictions approving management plans for the same matter. This could easily be remedied by endorsement of the state approved management plan.

If you wish to discuss any aspect of this submission further, please contact me

Yours sincerely,

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