

Santos

**Submission to The Secretariat to the Independent Review of
the EPBC Act**

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1. Executive Summary

Santos Limited (**Santos**) supports the terms of reference for the review of the operation of the *Environment Protection and Biodiversity Conservation Act 1999 (the Act)*, which are to examine:

- the operation of the Act generally;
- the extent to which the objects of the Act have been achieved;
- the appropriateness of current matters of National Environmental Significance; and
- the effectiveness of the biodiversity and wildlife conservation arrangements.

Santos also supports the key Australian government policy objectives set out in the terms of reference, in particular the objective to reduce and simplify the regulatory burden on business and the community.

Santos is a leading energy company for Australia and Asia and is engaged in onshore and offshore oil and gas activities. Santos has referred a number of actions under the Act.

Santos submits that the Act is clear and workable, and that there is a genuine intent on behalf of the Department of the Environment, Water, Heritage and the Arts (**DEWHA**) to make the Act pragmatic. Santos considers that it has a positive working relationship with DEWHA, which is facilitated by DEWHA's willingness to engage with industry on those matters it administers, and its ability to generally meet stated timeframes for decision making.

Santos submits that the operation of the Act will continue to be strengthened if administered by knowledgeable and experienced assessors. Santos encourages DEWHA to continue to utilise assessors with specific industry knowledge to administer applications of those industries.

Santos wishes to raise the following key issues in response to the review of the operation of the Act.

2. Key Issues for Submission

2.1. Scope

- Santos supports the objects of the Act. Santos promotes the ecologically sustainable use of natural resources.
- Santos submits that the existing matters of national environmental significance (**NES**) are appropriate given the objects of the Act and Australia's environmental legislative framework. Expansion of the matters of NES is not necessary to achieve the objects of the Act, and could potentially lead to duplication between legislation and would dilute the focus of the Act away from biodiversity management.

- Santos submits that the potential “triggers” suggested for inclusion as matters of NES, such as “greenhouse”, are or will be considered through legislation specific to those issues. For example, the *Energy Efficiency Opportunities Act 2006*, the *National Greenhouse and Energy Reporting Act 2007* and the proposed Carbon Pollution Reduction Scheme legislation are Commonwealth Acts that target climate change in a comprehensive manner.
- On a State level, one of the objects of the *Native Vegetation Act 1991 (SA)*, and similar Acts in other States, is to conserve, protect and enhance native vegetation in order to prevent reduction of biological diversity and loss of critical habitat. Inclusion of a land-clearing trigger in the Act is not necessary and would duplicate efforts by the States to manage land-clearing activities and protect native vegetation.
- Further, Acts such as the *Natural Resources Management Act 2004 (SA)* allow States to regulate access to groundwater resources such that an excessive abstraction of groundwater trigger is unnecessary. Inclusion of additional triggers would unnecessarily burden DEWHA and exhaust the limited resources for responding to existing matters of NES.
- Santos submits that the focus of the Act should be on protecting and conserving the environment, biodiversity and heritage through an efficient process that does not hinder ecologically sustainable development. Expanding the Act to include matters only remotely related to the objects of the Act should be discouraged.

2.2. Assessment and Approvals

- Santos supports the current system of assessment approaches, however any amendments should both seek to reduce overlap and duplication and ensure that no others are introduced.
- Santos submits that the established and clear timeframe of 20 days between the Minister receiving a referral and the decision regarding whether assessment and approval is required is a positive aspect of the Act, and provides certainty of process for industry.
- Further, Santos supports the bilateral agreements entered into between the Minister and the States and Territories resulting in a reduction of administrative requirements for industry. For example, in Queensland the ability to have a project such as the Glandstone LNG project assessed based on provisions of the *State Development and Public Works Organisation Act 1971 (Qld)* has significantly reduced administrative burden. However, we note that some State bodies insist that a referral under the Act be made, despite the existence of a bilateral agreement. Accordingly, Santos would welcome any strengthening of the bilateral agreements to reduce overlap and duplication of regulation.

2.3. Biodiversity

- The Act provides an effective regulatory framework which ensures that industry retains the opportunity to explore the resources potential of areas whilst maintaining the environmental integrity of that area.
- In general, Santos supports the existing assessment of nominations for inclusion in the Act's biodiversity lists. However, Santos submits that emergency listing has the potential for disrupting funded projects and creating uncertainty for investment.

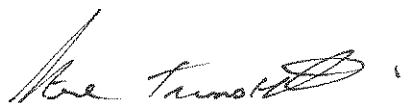
2.4. Decision Making Under the Act

- Santos submits that the "significant impact" test is too broadly defined and can be improved. Such a broad and subjective test means an increased administrative burden for industry, and a decrease in certainty, leaving to the Courts to decide the meaning of "significant impact". Santos submits that clear criteria should be established regarding the circumstances in which a project will be classified as having or likely to have a "significant" impact on a matter of NES.
- Santos submits that the operation of the Act will continue to be strengthened if assessors are well-trained and understand the action being proposed, the risk to biodiversity being posed by the action and the mitigation measures necessary.

Santos has also contributed to the development of the Australian Petroleum Production and Exploration Association submission and endorses its position on the operation of the Act not otherwise set out in this submission.

Santos welcomes the opportunity to discuss our submission with you in more detail. If you require further information please contact me on (08) 8116 7896.

Yours sincerely



STEVE TUNSTILL

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