

To: Department of Agriculture, Water and the Environment

Re: New Threatened Species Strategy

24 November 2020

Introduction

AMEC appreciates the opportunity to make a submission to the Department (DAWE) regarding the development of a new 11-year Threatened Species Strategy. We would like to request involvement in the development of Stage 2 of the Strategy, the release of the 5-year Action Plan in 2021.

About AMEC

The Association of Mining and Exploration Companies (AMEC) is a national industry body representing over 350 mining and mineral exploration companies across Australia. Collectively, these companies account for over \$100 billion of the mineral exploration and mining sector's capital value.

The mining and exploration industry make a critical contribution to the Australian economy, employing over 255,000 people. In 2018/19, these companies collectively paid over \$39 billion in royalties and taxation, invested \$36.1 billion in new capital, and generated more than \$283 billion in mineral exports. In 2019/20, \$2.8 billion was spent on minerals exploration, representing an 18% increase from the previous year.

New Threatened Species Strategy Discussion Paper

General feedback

AMEC welcomes opportunities for collaboration between the Commonwealth, State and Territory Governments, and relevant interest groups to implement the new Strategy, following the conclusion of the current Strategy's Action Plan in June 2020. Industry continues to acknowledge the importance of protecting threatened species and appreciates ongoing engagement with the Department.

Industry is regulated by the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), which currently has more than 1,800 species listed as threatened. AMEC seeks to ensure the new Strategy and any future iterations will continue to protect and recover Australia's threatened species without unnecessarily creating red tape or duplication.

As the Interim Report to the EPBC Act observed: *"Since the EPBC Act was introduced, the threat status of species has deteriorated. Approximately 4 times more species have been listed as threatened than those that have shown an improvement. Over its 20-year operation, only 13 animal species have been removed from the Act's threatened species lists, and only one of these (Muir's Corella) is generally considered a case of genuine improvements."*

Further than simply ensuring this Strategy does not impose commercial impediments, AMEC considers that the next iteration must achieve its intended outcome of reducing the number of species listed.

The EPBC Act Review

The Graeme Samuel Review into the EPBC Act is expected to deliver their final report before December 2020. This Review is expected to include National Standards reshaping the implementation of the EPBC nationally. This will be a substantial shift in how the Strategy's finalisation should be delayed until full consideration is given to how the Commonwealth Government intends to implement the review.

Bilateral

AMEC supports the Commonwealth and State Government's intentions to develop approval bilaterals to speed the operation of the EPBC Act and reduce duplication. The Threatened Species Strategy duplicates the focus and regulation of the State Environmental Departments. The current Discussion paper does not provide any detail to how duplication will be identified and reduced, or how this Strategy would interlock with bilateral agreements. This omission should be rectified.

Question for comment: What are the three most important changes you would like to see in a new Threatened Species Strategy, and why?

1. Objectives

AMEC believes the objectives proposed in the discussion paper, particularly objectives one (mitigating priority threats) and two (preserving, restoring & improving habitat), are ambiguous. Objectives that are specific, measurable, achievable, results-focused, and time-bound, provide industry, regulators, and interest groups with a level of certainty as to the conditions that will underpin the regulation of relevant legislation over the next five years of the Strategy.

More robust and clear objectives will enable industry to understand what is required of them. This will improve the quality of environmental applications and reports and will provide more consistency in regulation and tracking of progress against objectives. Tighter definition of objectives will also minimise the need for prescriptive measures; if prescription is not avoided, it will add administration for industry and regulators, and may not best serve the Strategy's objectives.

2. Reduce duplication between the Commonwealth and States / Territory threatened species lists

The difference in what is considered a threatened species between the EPBC threatened species list, and each jurisdiction's relevant environmental body's threatened species list, creates unnecessary duplication, and reduces accountability of States, Territories, and the Commonwealth.

Discrepancies between lists create potentially different requirements for proponents seeking approval for assessment, leading to costs, delays, and frustration. Of greater concern is the Commonwealth and States' continued inability to agree generates scepticism and cynicism regarding the scientific foundation of either list.

In June 2015, the environment Ministers of each Australian jurisdiction agreed to an intergovernmental memorandum of understanding (MOU) on a common assessment method for the

listing of threatened species and ecological communities¹. This MOU sought to harmonise and simplify processes to improve regulatory efficiency and effectiveness while maintaining environmental protection. Importantly it underpins the establishment of a single threatened species list.

Identifying a single list of threatened species should be a priority for the New Strategy. This should also translate to increased accountability on each jurisdiction and the Commonwealth in relation to recovery actions and outcomes under the Strategy.

3. Define the responsible authority for the Strategy's recovery outcomes

The current Strategy does not provide clarity as to the roles and functions of the Commonwealth, and State and Territory Governments. The majority of issues in the Discussion paper relate to the continued unamended operation of the Strategy.

The lack of a consistent approach between State / Territory and Commonwealth processes creates uncertainty amongst proponents and regulators alike. This can cause increased costs for both proponents and Governments, as the collection of environmental information can be a timely and expensive undertaking.

The duplication arising from the crossover between legislations is currently patched over by MOUs and the common assessment method. The Strategy should not be accepting this hodgepodge, and seek to improve outcomes by reducing duplication and transparently defining roles.

The Wentworth Group of Concerned Scientists² in their detailed response to the EPBC Act review identified that the vast majority of developments that trigger the EPBC Act, (81% in 2018-19), did so because of threatened species and threatened ecological communities and/or migratory species.

Their submission goes on to observe that developing guidelines that enable developers to more readily assess whether their project is likely to have a significant impact on threatened and migratory species would be beneficial. The Government could also develop more specific standardised acceptable approaches to avoiding or mitigating impacts on threatened and migratory species that a proponent could adopt. They consider that there are several such science based, peer- reviewed standards which could be drawn upon. Developing such Standards in collaboration with the State jurisdictions and industry could lead to lower administrative burden for all parties and improve outcomes.

AMEC considers the development of guidance and standardised solutions would increase the certainty and transparency of how to manage threatened species. To do so could achieve the best ecological outcomes, reduce the ambiguity of Commonwealth/State overlap and satisfy both the State and Federal legislation. Final comments

AMEC welcomes opportunities to engage with DAWE on issues that will impact the mineral exploration and mining industry. We request further involvement as the Threatened Species 5-year Action Plan is developed in 2021, to ensure industry is adequately represented, and can work with the Department to protect these threatened species.

¹ <https://www.environment.gov.au/biodiversity/threatened/publications/mou-cam>

² <https://epbcactreview.environment.gov.au/submissions/anon-k57v-xqtw-1>

The changes recommended in our submission to the discussion paper highlight the importance of providing clearly articulated objectives to underpin how this issue will be regulated and monitored, without the need for prescription. Clarity into the key outcomes sought by the Department will provide industry, interested groups, and regulators with more consistency and accountability, to accurately track deliverables and progress without increasing red tape.

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