

SUBMISSION ON THE PROPOSED COST RECOVERY UNDER THE EPBC ACT

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Introduction

The Clean Energy Council (**CEC**) welcomes the opportunity to make an initial submission on the proposed changes to cost recovery under the *Environmental Protection and Biodiversity Conservation Act 1999* (**EPBC Act**), as outlined in the December 2022 Consultation Paper.

The CEC is the peak body for the clean energy industry in Australia. We represent and work with over 1,000 of the leading businesses involved in the development, construction, operation, and ownership of solar, on-shore and offshore wind, energy storage and renewable hydrogen. We are committed to accelerating Australia's clean energy transformation.

Feedback on the Consultation Paper

1) Fee increases are significant for the renewable energy industry

While the estimated 0.5 per cent increase in overall costs due to higher EPBC Act fees may not be problematic for some individual projects, it may prove challenging for many projects. The Department has noted fluctuations of other project costs to claim that a change in regulatory fees should be able to be accommodated, however it is often due to those other cost fluctuations that any additional cost can be challenging.

The proposed increase in EPBC Act cost recovery fees cannot be considered in isolation. The cost and complexity of project development is already growing significantly due to other state/federal requirements. These costs need to be put into this broader context, along with the recognition that the annual pace of large-scale renewable energy roll-out needs to double if we are to meet government targets and existing policy commitments.

We welcome the Department's ambition to provide more efficient and thorough assessments, however we submit that greater staff resourcing could be provided through an increase in Departmental budgetary allocations.

2) Reduction in new fees for renewable energy projects

Renewable energy projects provide a valuable public benefit in terms of supporting the electricity system that virtually every citizen and business relies on in Australia.

Beyond this essential public service, renewable energy is at the core of solutions to climate change, which is one of the greatest threats to biodiversity and environmental health. Fossil fuel generation in Australia's existing electricity system contributes approximately one third of the country's greenhouse



gas emissions. The shift to clean energy will not only eliminate those emissions but also enables other energy uses that are major contributors to Australia's emissions profile (such as transport and heat for buildings/industry) to be electrified, reducing emissions even further and contributing directly to reduced impacts of climate change on our ecosystems. Indeed, there is no credible way of reaching Commonwealth and State energy and climate commitments without a rapid roll-out of renewable energy and storage projects.

A significant increase in the costs of development is likely to deter this rapid roll-out, and an increase in EPBC fees will contribute to that increased cost of development.

In addition, we consider that many, if not most renewable energy projects will be 'well understood' by the Department and assessments should be able to be streamlined, particularly where projects are situated in priority areas for development such as Renewable Energy Zones, and therefore associated costs should be able to be cut-down and streamlined.

For these reasons, we submit that renewable energy projects should be prioritised in the EPBC Act system and benefit from fee reduction actions, rather than impacted and deterred by an increase in fees.

Under the current available actions to reduce the financial impact of fees, we consider the combination of essential service provision and direct contribution to reducing emissions (and therefore impacts on biodiversity) should be considered sufficient to meet the test required for - at a minimum - a partial waiver of fees on the basis of public interest.

We are not asserting that renewable energy projects shouldn't pay any fees – rather that these projects should not be disincentivised by imposing on them a significant escalation of fees. In other words, we submit that renewable energy and energy storage projects should continue to be assessed under similar fee structures that have been used in practice to date, taking inflation into account.

We suggest this waiver of increased fees should be applied across the renewable energy generation and energy storage sector, rather than on a project-by-project basis (noting that each project will still be assessed individually).

The CEC welcomes an opportunity to work with the Department on alternative and suitable fee reduction actions.

3) Deferrals

Higher costs during project development could deter investment, even if those fees can be deferred.

Expenditure on project development is highly risky, as the financial return might be substantially delayed or may never eventuate if the project does not proceed. It is becoming very challenging to make an investment case to pay high regulatory fees before knowing if a project is viable. For that reason, we welcome the proposed introduction of fee deferrals, noting that the full procedure on deferring fees, and the consequences if projects do not progress to commencement, must be understood before this policy change is implemented.

We submit that fee deferral should be allowed until the commencement of the project, not only until a decision has been made on the EPBC Act referral. While EPBC Act approvals provide some level of certainty that a project will proceed, there are still many other steps to confirm that a project will actually commence.



4) Grandfathering provisions

We understand that the Department does not yet have a firm view on when new fees should take effect and how/when these should apply to new projects.

Noting above our general view that renewable energy generation and storage projects should not have the new higher fees applied to them on the ground of public benefit, we submit that any change in fees should not be applied to any projects that are currently being assessed nor to projects that have started pre-lodgement conversations with the Department at the time of any changes coming into effect.

The Department should also consider a staged introduction of fee increases. That is, stepping fees up in increments over a several-year period.

5) Complexity matrix

We do not support the proposed complexity matrix in its current form as the criteria appears to be determined on a discretionary basis. We submit that the approach should not be subjective and based on the assessor as this is unlikely to support efficient or transparent decision making.

6) Other

We are also keen to ensure that developers of offshore wind projects paying cost recovery fees under the Offshore Electricity Infrastructure Act are not paying dual costs under the various assessment frameworks.

Thank you for the opportunity to provide initial input into this process. We look forward to seeing the Regulatory Impact Statement and to contribute to the next round of consultation.

For further information:

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