

s. 47F(1)

# s. 22(1)(a)(ii)

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**From:** Declan O'Connor-Cox

**Sent:** Thursday, 16 September 2021 3:05 PM

**To:** s. 47F(1) @environment.gov.au

**Subject:** FW: Points for discussion at tomorrow's regional planning pilot catch up [SEC=OFFICIAL]

Hi s. 47F(1) – just to be clear – James doesn't need to write up a response to these, the team will take him through the points which are a guide to a discussion.

Declan

---

**From:** s. 47F(1) @environment.gov.au

**Sent:** Thursday, 16 September 2021 2:28 PM

**To:** James Tregurtha <James.Tregurtha@environment.gov.au>

**Cc:** s. 47F(1) @agriculture.gov.au; s. 47F(1)

s. 47F(1) @environment.gov.au; s. 47F(1) @environment.gov.au; Declan O'Connor-Cox <Declan.O'connor-Cox@environment.gov.au>; Melissa McEwen <Melissa.McEwen@environment.gov.au>

**Subject:** Points for discussion at tomorrow's regional planning pilot catch up [SEC=OFFICIAL]

Hi James,

We'd like to get your insights on a number of points to assist our team progress the regional planning pilot.

As an update, we have engaged Thinkplace to develop a discussion paper to support the framework development and having your insights on the points below will assist in the development of that paper as well as developing the engagement strategy.

A brief (MS21-003095) is also with the Minister's office awaiting her agreement on the high level approach and timing of the regional planning pilot.

## Outcomes of the pilot

- What do you see the regional plan pilot achieving?
- Your ideas of the optimal level of complexity to tackle in the pilot in terms of the diversity of sectors/industries and the range of MNES.
- Your thoughts of the ideal specificity of the regional plan to achieve the best environmental outcomes. Will it be at the level of maps delineating different types of development areas (e.g. no-go, anything goes, target areas for certain industries, target areas of offsets) or would categories, criteria or flowcharts be the more likely output tools for decision-makers?
- How do you see the plan linking with assessment decisions? Would conditions be placed on projects or would it be more like NCA-PM? If conditions are to be applied is there a role for a standard decision set such as was used in the Joint Industry Framework (JIF)?

## Framework development

- Currently we are looking at undertaking the regional plan pilot under s176 of the EPBC Act which would enable the Commonwealth to develop the plan in partnership with a willing state or territory and for the Minister to approve the regional plan via a declaration under s37A of the Act. Is this consistent with your thinking?
- At what level do you see the framework being pitched at? e.g. principle base or more prescriptive like a standard. Aligning the framework with the national environmental standards as guidance in the first instance as the legislation does not yet support them explicitly for bioregional plans undertaken under s176?
- The review recommends a set of core requirements for ESD plans and these could nest neatly under the existing requirement of the what is included in a bioregional plan. Are you comfortable with us using those as a starting point for the collaborative workshops we plan to undertake to develop the framework?

#### Pilot region selection

- Your views on pilot location, what type of sectors it should cover and where it might be undertaken based on the initial discussions you have had with multiple stakeholders?

#### Data and Information to support regional plan development

- Your opinions on the SAFE vs the IEA approach to data analysis to support regional planning?

#### Offsets and restoration

- How do you see offsets being reflected in regional plans and linkages to restoration? This is important with current work in EAD on updating the offset policy and how EAD view the difficulties with using improvement offsets that focus on restoration of sites.

With thanks,

s. 47F(1)

s. 47F(1)

**Assistant Director, Priority Reform Delivery**

**Environment Protection Reform Branch**

T: 02 627<sup>s. 47F(1)</sup> | email: s. 47F(1) @awe.gov.au

Please note I work part-time Mon 9-5pm, Tue 9.30-4.30pm, Thu 9.30-5pm, Wed/Fri 9-3pm

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#### Department of Agriculture, Water and the Environment

Environment Protection Reform Division

Location: John Gorton Building, Parkes ACT 2600

GPO Box 858, Canberra ACT 2601, Australia

[www.awe.gov.au](http://www.awe.gov.au)

*The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present*



Please consider our environment before printing this e-mail.

**From:** s. 47F(1)  
**To:** [James.Tregurtha](mailto:James.Tregurtha@environment.gov.au)  
**Subject:** FW: Points for discussion at tomorrow's regional planning pilot catch up [SEC=OFFICIAL]  
**Date:** Thursday, 16 September 2021 3:05:00 PM  
**Attachments:** [image001.png](#)

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James

See comment from Declan below.

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**Assistant Director, Priority Reform Delivery**

**Environment Protection Reform Branch**

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# s. 22(1)(a)(ii)

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**From:** Declan O'Connor-Cox  
**Sent:** Tuesday, 9 November 2021 3:02 PM  
**To:** Melissa McEwen <Melissa.McEwen@environment.gov.au>  
**Subject:** RE: [SEC=OFFICIAL]

Yes, you are right, s176 is 'may include'

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**From:** Melissa McEwen <[Melissa.McEwen@environment.gov.au](mailto:Melissa.McEwen@environment.gov.au)>  
**Sent:** Tuesday, 9 November 2021 2:57 PM  
**To:** Declan O'Connor-Cox <Declan.O'connor-Cox@environment.gov.au>  
**Subject:** RE: [SEC=OFFICIAL]

And the Act says "all or any" of the considerations. I may have a bit of a play with the workds.

Melissa McEwen  
(02) 6272 5781 | [s. 47F\(1\)](#)  
She/her/hers

---

**From:** Declan O'Connor-Cox <Declan.O'connor-Cox@environment.gov.au>  
**Sent:** Tuesday, 9 November 2021 2:52 PM  
**To:** Melissa McEwen <[Melissa.McEwen@environment.gov.au](mailto:Melissa.McEwen@environment.gov.au)>  
**Subject:** RE: [SEC=OFFICIAL]

One of the general considerations under s37B is economic and social matters, as well as the principles of ESD (which includes social and economic considerations). But I suppose the regional plan would not need to specify outcomes in these areas, its just that the Minister will need to consider these areas – I will quickly check with [s. 47F\(1\)](#).

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**From:** Melissa McEwen <[Melissa.McEwen@environment.gov.au](mailto:Melissa.McEwen@environment.gov.au)>  
**Sent:** Tuesday, 9 November 2021 2:46 PM  
**To:** Declan O'Connor-Cox <Declan.O'connor-Cox@environment.gov.au>  
**Subject:** [SEC=OFFICIAL]

Will our regional plans really need to outline the economic and social and cultural objectives of a particular area? Aren't they primarily focused on environmental and heritage values ie MNES and cumulative impact? What do we mean by economic/social/cultural – or is that something we have to work out?

I know I have seen this line before but I have never thought about it deeply – and when I do it

seems scarily vast.

### Melissa McEwen

Pronouns: She/her/hers

First Assistant Secretary | Environment Protection Reform Division

Department of Agriculture, Water and the Environment

☎ 02 6272 5781 | s. 47F(1) | <http://www.awe.gov.au>

Executive Assistant

s. 47F(1)

☎ 02 627<sup>s. 47F(1)</sup> | ✉ s. 47F(1) @awe.gov.au

Department of Agriculture, Water and the Environment

John Gorton Building, King Edward Terrace, Parkes ACT 2600

GPO Box 858 Canberra ACT 2601 Australia

Recognition%20of%20ATSI%20signature%20block



# s. 22(1)(a)(ii)

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**From:** Declan O'Connor-Cox

**Sent:** Friday, 12 November 2021 4:59 PM

**To:** s. 47F(1) @environment.gov.au>

**Cc:** s. 47F(1) @environment.gov.au>; s. 47F(1)

s. 47F(1) @environment.gov.au>; s. 47F(1) @environment.gov.au>;

s. 47F(1) @environment.gov.au>; s. 47F(1)

s. 47F(1) @environment.gov.au>; s. 47F(1) @environment.gov.au>

**Subject:** RE: Administrative board papers- for clearance [SEC=OFFICIAL]

Thanks, some excellent work! Some comments below, nothing major I hope:

Agenda:

Does External engagement placement still need to be in the Protection Enclave?

Project Plan – there is still some text in yellow?

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Forward agenda:

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Budget 2022/23 preparation:

We should raise the standalone sub issue with Melissa and how to handle that discussion. Where we say we will coord the sub or coord the messaging, can we first say 'As per last time,...' or something like that.

Declan

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**From:** s. 47F(1) <[s.47f\(1\)@environment.gov.au](mailto:s.47f(1)@environment.gov.au)>  
**Sent:** Friday, 12 November 2021 2:20 PM  
**To:** Declan O'Connor-Cox <[Declan.O'connor-Cox@environment.gov.au](mailto:Declan.O'connor-Cox@environment.gov.au)>  
**Cc:** s. 47F(1) <[s.47f\(1\)@environment.gov.au](mailto:s.47f(1)@environment.gov.au)>; s. 47F(1) <[s.47f\(1\)@environment.gov.au](mailto:s.47f(1)@environment.gov.au)>; s. 47F(1) <[s.47f\(1\)@environment.gov.au](mailto:s.47f(1)@environment.gov.au)>; s. 47F(1) <[s.47f\(1\)@environment.gov.au](mailto:s.47f(1)@environment.gov.au)>; s. 47F(1) <[s.47f\(1\)@environment.gov.au](mailto:s.47f(1)@environment.gov.au)>; s. 47F(1) <[s.47f\(1\)@environment.gov.au](mailto:s.47f(1)@environment.gov.au)>  
**Subject:** FW: Administrative board papers- for clearance [SEC=OFFICIAL]

Hi Declan

Please see the package of Board papers in the table below for your review/clearance. Note that there are two papers in the PE.

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<sup>s. 47F(1)</sup> will also prepare a short paper outlining the changes to the Project Plan given that we're now considering it out of session (the plan had been to do that verbally). This won't be ready until Monday.

Happy to talk through any of the items today. Note that I'm still trying to get time in Melissa's diary on Monday to talk her through the papers, and also discuss the external engagement work.

Cheers

s. 47F(1)

AGENDA ITEM	PAPER	LEAD	TIME
1 <b>Welcome</b>	<ul style="list-style-type: none"> <li><a href="#">Agenda</a></li> </ul>	Melissa McEwen	5 mins
2 <b>Meeting Minutes and Action items from previous</b>	<ul style="list-style-type: none"> <li><a href="#">Action items</a></li> <li><a href="#">Project Plan</a></li> </ul>	Melissa McEwen	5 mins

	<p><b>meeting</b></p> <p><b>Papers:</b> Meeting Minutes and Action Items list</p> <p><b>Outcomes sought:</b></p> <ul style="list-style-type: none"> <li>• Agree minutes and note action items.</li> <li>• Agree to provide final comments on Project Plan and Board Terms of Reference out of session.</li> </ul>	<ul style="list-style-type: none"> <li>• <a href="#">Terms of Reference</a></li> </ul>		
3	<p><b>Environment Protection Reform update and progress report</b></p> <p><b>Papers:</b> Progress reports for August/September and October/November</p> <p><b>Outcome sought:</b> Agree progress report template; Agree work completed to date</p>	<ul style="list-style-type: none"> <li>• <a href="#">August/September</a></li> <li>• <a href="#">October/November</a></li> </ul>	Melissa McEwen	15 mins
4	<p><b>Budget 2022/23 preparation</b></p> <p><b>Paper:</b> [Refer Protected Enclave]</p> <p><b>Outcome sought:</b> Note progress of Budget preparation</p>	[Refer PE, sent by Rommel at 1.30pm today]	Declan O'Connor-Cox, Assistant Secretary, EPRB	10 mins
5	<p><b>Regional Planning</b></p> <p><b>Paper:</b> Pilot regional planning update</p> <p><b>Outcome sought:</b> Agree to note risks and risk management measures associated with the pilot regional plan</p>	<ul style="list-style-type: none"> <li>• <a href="#">Board Paper</a></li> <li>• <a href="#">Placemat</a></li> </ul>	s. 47F(1), A/g Director, Priority Reform Delivery Section	10 mins
6	<b>External</b>	[Refer PE, sent by me at 2.04pm today]	s. 47F(1),	10 mins

<p><b>engagement</b></p> <p><i>Paper: External engagement placement [see Protection Enclave]</i></p> <p><b>Outcome sought:</b></p>		<p>Director, Reform Strategy Section</p>	
<p>7 <b>Other Business &amp; Next meeting</b></p> <p><i>Paper: Forward agenda</i></p> <p><b>Outcome sought:</b> <i>Note the forward agenda.</i></p>	<ul style="list-style-type: none"> <li>• <a href="#">Indicative Forward Agenda</a></li> </ul>	<p>Melissa McEwen</p>	<p>5 mins</p>

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**From:** s. 47F(1) [@environment.gov.au](mailto:@environment.gov.au)>  
**Sent:** Tuesday, 9 November 2021 5:11 PM  
**To:** s. 47F(1) [@environment.gov.au](mailto:@environment.gov.au)>  
**Cc:** s. 47F(1) [@environment.gov.au](mailto:@environment.gov.au)>  
**Subject:** Administrative board papers- for clearance [SEC=OFFICIAL]

Hey-

Here are the package of Board papers for clearance – minus the Regional Planning and Budget update that s. 47F(1) and s. 47F(1) are progressing.

1. [Agenda](#)
2. [Action items](#)
3. Progress Reports –
  - a. [August/September](#)
  - b. [October/November](#) - I've left the Progress statement for you to update as you have had more exposure to the type of language we are using currently in terms of discussions with the MO.
4. [Project Plan](#) – I have updated to include CARD input. Not sure about EAD input- could we discuss? Do we possibly add the risks Tharanie provided? Also included a version control table and updated the budget figure.
5. [Terms of Reference](#) – I have left a couple of your comments in there as I think we may need to discuss.
6. [Indicative Forward Agenda](#) – I think the Directors are yet to comment on this

Hoping to get some Indigenous engagement work done- so haven't done the annotated agenda yet although I have [started the document](#).

If you could clear these by lunch tomorrow- then I can send the whole package to Declan.

Ta

s. 47F(1)

**s. 47F(1)**

Acting Assistant Director

Reform Strategy Section, Environment Protection and Reform Branch

Department of Agriculture, Water and the Environment

Ngunnawal Country

T: 02 627<sup>s. 47F(1)</sup> | M: **s. 47F(1)** | E: **s. 47F(1)** [@awe.gov.au](mailto:s.47F(1)@awe.gov.au)



# s. 22(1)(a)(ii)

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**From:** s. 47F(1) @environment.gov.au>  
**Sent:** Monday, 15 November 2021 9:10 AM  
**To:** Declan O'Connor-Cox <Declan.O'connor-Cox@environment.gov.au>  
**Cc:** s. 47F(1) @environment.gov.au>; s. 47F(1) @environment.gov.au>;  
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I've updated the August progress report to reflect Declan's feedback on the MNES standard. I also updated the EAC line to mirror the language.

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**Sent:** Saturday, 13 November 2021 1:55 PM  
**To:** Declan O'Connor-Cox <Declan.O'connor-Cox@environment.gov.au>; s. 47F(1) @environment.gov.au>  
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Hi Declan,

I've updated the project board paper and placemat for regional planning – happy to discuss.

I still have a query on how best to address post approvals/compliance with an implemented plan when I do not think we have that functionality under s37A under the Act like we do with a strategic assessment.

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3 <b>Environment</b>	<ul style="list-style-type: none"> <li><a href="#">August/September</a></li> </ul>	Melissa	15

	<p><b>Protection Reform update and progress report</b></p> <p><i>Papers: Progress reports for August/September and October/November</i></p> <p><b>Outcome sought:</b> <i>Agree progress report template; Agree work completed to date</i></p>	<ul style="list-style-type: none"> <li>• <a href="#">October/November</a></li> </ul>	McEwen	mins
4	<p><b>Budget 2022/23 preparation</b></p> <p><i>Paper: [Refer Protected Enclave]</i></p> <p><b>Outcome sought:</b> <i>Note progress of Budget preparation</i></p>	[Refer PE, sent by Rommel at 1.30pm today]	Declan O'Connor-Cox, Assistant Secretary, EPRB	10 mins
5	<p><b>Regional Planning</b></p> <p><i>Paper: Pilot regional planning update</i></p> <p><b>Outcome sought:</b> <i>Agree to note risks and risk management measures associated with the pilot regional plan</i></p>	<ul style="list-style-type: none"> <li>• <a href="#">Board Paper</a></li> <li>• <a href="#">Placemat</a></li> </ul>	s. 47F(1), A/g Director, Priority Reform Delivery Section	10 mins
6	<p><b>External engagement</b></p> <p><i>Paper: External engagement placement [see Protection Enclave]</i></p> <p><b>Outcome sought:</b></p>	[Refer PE, sent by me at 2.04pm today]	s. 47F(1) Director, Reform Strategy Section	10 mins
7	<p><b>Other Business &amp; Next meeting</b></p> <p><i>Paper: Forward agenda</i></p> <p><b>Outcome sought:</b> <i>Note the forward agenda.</i></p>	<ul style="list-style-type: none"> <li>• <a href="#">Indicative Forward Agenda</a></li> </ul>	Melissa McEwen	5 mins



**From:** s. 47F(1) <[s.47F\(1\)@environment.gov.au](mailto:s.47F(1)@environment.gov.au)>  
**Sent:** Tuesday, 9 November 2021 5:11 PM  
**To:** s. 47F(1) <[s.47F\(1\)@environment.gov.au](mailto:s.47F(1)@environment.gov.au)>  
**Cc:** s. 47F(1) <[s.47F\(1\)@environment.gov.au](mailto:s.47F(1)@environment.gov.au)>  
**Subject:** Administrative board papers- for clearance [SEC=OFFICIAL]

Hey-

Here are the package of Board papers for clearance – minus the Regional Planning and Budget update that s. 47F(1) and s. 47F(1) are progressing.

1. [Agenda](#)
2. [Action items](#)
3. Progress Reports –
  - a. [August/September](#)
  - b. [October/November](#) - I've left the Progress statement for you to update as you have had more exposure to the type of language we are using currently in terms of discussions with the MO.
4. [Project Plan](#) – I have updated to include CARD input. Not sure about EAD input- could we discuss? Do we possibly add the risks Tharanie provided? Also included a version control table and updated the budget figure.
5. [Terms of Reference](#) – I have left a couple of your comments in there as I think we may need to discuss.
6. [Indicative Forward Agenda](#) – I think the Directors are yet to comment on this

Hoping to get some Indigenous engagement work done- so haven't done the annotated agenda yet although I have [started the document](#).

If you could clear these by lunch tomorrow- then I can send the whole package to Declan.

Ta  
s. 47F(1)

**s. 47F(1)**

Acting Assistant Director  
Reform Strategy Section, Environment Protection and Reform Branch  
Department of Agriculture, Water and the Environment  
Ngunnawal Country  
T: 02 627s. 47F(1) | M: s. 47F(1) | E: s. 47F(1) [e@awe.gov.au](mailto:s.47F(1)@awe.gov.au)





## Environment Protection Reform Project Board

### Regional Planning

Prepared by: s. 47F(1) and s. 47F(1)  
Agenda item: 05  
Meeting date: Monday 22 November 2021, 4:00 – 5:00 pm

---

#### 1. Pilot Regional Plan

The Australian Government has allocated \$2.7m over three years to support the development of a regional plan in conjunction with a willing state or territory.

##### 1.1. Objective

The objective of the pilot is to:

- Allow for planning at different geographic scales, with consideration of cumulative risks and key threats.
- Streamline development decisions by moving away from project-by-project development assessments to a more landscape scale approach.
- Establish that actions taken in accordance with a regional plan declared under s37A of the EPBC Act would not require a separate approval under Part 9 of the Act.
- To support targeted investments in protection, conservation and restoration.

The placemat (**Attachment A**) provides an overview of the approach and timing for implementing the regional planning project. We would like to use the placemat as an internal communication tool and seek the Board's views on any additional feedback that internal areas would be interested in.

##### 1.2. Stakeholder Consultation

The department has commenced targeted stakeholder consultation in developing the regional planning framework. A total of four of 2-week sprints will be undertaken to develop the framework with the final refinement sprint to be undertaken early in 2022.

- A workshop with departmental staff occurred on 9 November, and with the states and territories on 17 November. Workshops will also be undertaken with industry and environment advocacy groups, Indigenous partners, Commonwealth agencies and technical experts.
- The internal workshop representation included officers from GAIA, OWS, CEWO, CARD, EAD, HRWT, BCD, Compliance and Enforcement, Environment Biosecurity Office and EPRD.
- The internal workshop was well received and provided areas of discussion for the framework development which included (but not limited to):
  - How do we focus on incentivising positive environmental outcomes?
  - How will plans enable the Minister to make a s37A declaration?

- How will the plans be monitored, reviewed, and enable adaptive management over time?
- How does the department provide systems and frameworks to better support data and information collection and access to support regional plan development?
- How will the plan take into consideration Indigenous interests in the region?
- who is responsible for compliance once implemented?

### 1.3. Interests and departmental engagement in Regional Planning

The regional planning pilot overlaps with key areas of the department. EPRD are leading the regional planning program and consulting widely throughout the department in developing the framework that will support the development and implementation of the plan. It is anticipated targeted involvement from various areas of the department will be required at specific stages of the pilot over the next 3 years.

Stage	Lead Division	Supporting Divisions	Key interest/linkages	Timing
Framework Development	EPRD	BCD, EAD, GAIA, CED, OWS, EBO, CEWO, HWRT, CARD	Supporting framework development through discussions and workshops	2021-22
Priority Region Selection	EPRD	GAIA	Priority location identification	2021-22
		EAD	Information on development pressures in jurisdictions	
		BCD	Threatened Species Action Plan – priority places overlap	
Plan Development	EPRD	GAIA	Data capture and analysis Data Support frameworks	2022-23
		EAD	Advice on adequacy of avoidance, mitigation and offset measures	
		CARD	Consideration of offsets and markets towards investment in restoration. Ag stewardship	
		EBO	Consideration of national level threats and actions taken in the priority region	
		BCD	Data capture from TSS-AP	
Declaration of Actions	EPRD / EAD tbc		Preparation of briefing to support a s37A declaration by the Minister	2023-24
Implementation / Compliance	tbc	GAIA	Ongoing data support for monitoring, evaluation, review	ongoing
		CED	Compliance of actions in accordance with the plan	
		BCD	Linkages to future investment programs (e.g. RLP)	
		EAD	Compliance to seek advice from EAD on adequacy of measures in accordance with a regional plan or non-compliant actions	

#### 1.4. Key Risks

The development of the regional plan relies on a willing state or territory to be responsible for its funding and resourcing. After consultation, it may be that no jurisdiction is willing or able to commit the resources required to undertake the regional plan development within the timeframe of the project.

Being satisfied that we have the data and information to support the development of a plan that enables streamlining of approvals under the EPBC Act and allows for developments that will not require EPBC Act approval.

# Regional Planning – EPBC Act Reform

## Commonwealth Investment

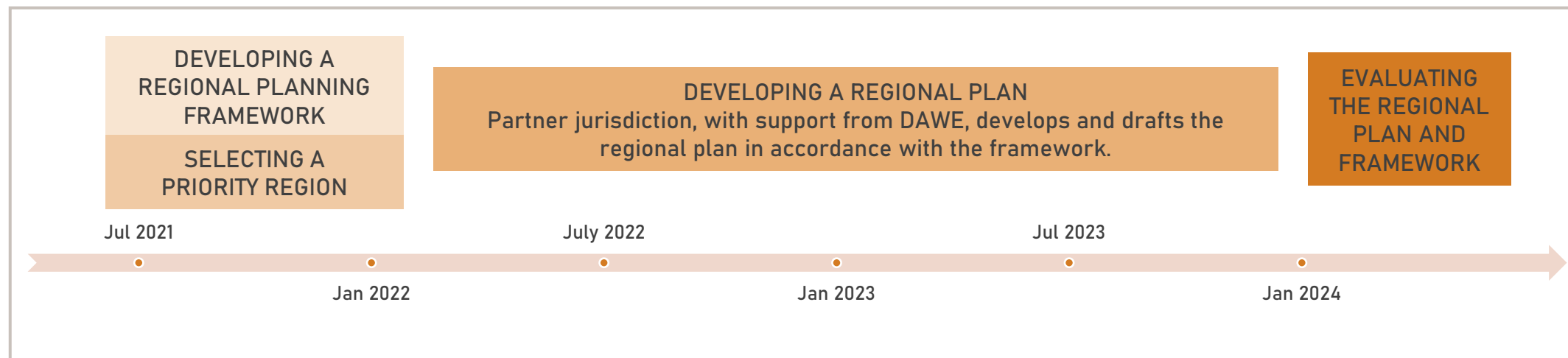
The Australian Government has allocated \$2.7m over three years to support the development of a regional plan in conjunction with a willing state or territory.

This forms part of [A pathway for reforming national environmental law](#) following the independent review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), conducted by Professor Graeme Samuel AC.



## What is a regional plan?

A regional plan is a plan that outlines the environmental and heritage objectives of a particular area on a regional scale, and the relevant actions to be taken that are permitted to achieve those objectives, taking account of economic and social issues. Regional plans could be made under the bioregional planning provisions (s176). The Environment Minister may declare (s37A) that certain types of developments under the regional plan can occur without the need of a separate approval under the EPBC Act.



## Planning for the future

Regional planning presents an opportunity to expand the use of the existing bioregional planning provision under the EPBC Act. This will trial developing plans for terrestrial environments that may have complex cross-jurisdictional boundaries, competing land-use requirements and different requirements under state, territory and Commonwealth legislation.

It will provide businesses with certainty when they want to expand or establish new operations in an area where a regional plan exists.



## Developing a Regional Planning Framework

Targeted stakeholder consultation will be undertaken between November 2021 to January 2022 to inform the development of the regional planning framework.

This will include states and territories, industry and environment advocacy groups, Indigenous peoples, other Commonwealth agencies and regional planning experts.



## Selecting a Priority Region

As part of the targeted consultation, states and territories will be asked to nominate regions that they would like considered for the regional plan.

DAWE is developing selection criteria to guide consultation and early development of the regional planning framework. Considerations include:

- presence of nationally protected matters
- significant impacts of current and likely development
- commitment from partner jurisdiction
- sufficient and appropriate scale to test and deliver
- data availability and existing plans
- opportunity for Commonwealth and state/territory alignment



## Supporting Environmental Reform

The regional plan aims to:

- ✓ Allow for planning at different geographic scales, with consideration of cumulative risks and key threats to support positive environmental outcomes.
- ✓ Streamline development decisions by moving away from project-by-project assessments to a strategic approach to environmental management.
- ✓ Establish that actions taken in accordance with the classes of actions declared under s37A of the EPBC Act in a regional plan would not require a separate approval under Part 9 of the EPBC Act.
- ✓ To support targeted investments in protection, conservation and restoration.







# Regional Planning

## EPBC Act Reforms

Presentation to the  
CRC TiME Annual Forum Regional  
Cumulative Impact Assessment Workshop



Environmental Protection Reform

30 November 2021

# Commonwealth Investment in Regional Planning

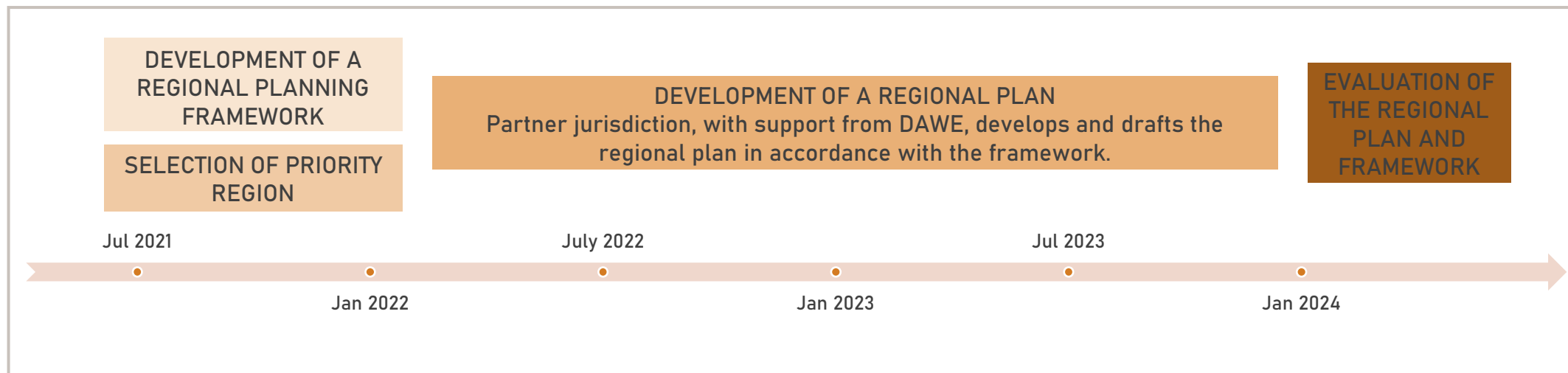
## A pathway for reforming national environmental law

- \$2.7m over three years to develop a regional plan with a willing state or territory

### What is a regional plan?

- Outlines environmental and cultural objectives, and relevant actions permitted to achieve those objectives, taking account of economic and social issues
- Made under the bioregional planning provisions (s176)
- Environment Minister may declare (s37A) that certain types of developments under the regional plan can occur without the need of a separate approval under the EPBC Act

## Development Approach



Nov 2021 to Jan 2022: targeted stakeholder consultation to co-design framework

- including states and territories, industry and environment advocacy groups, Indigenous peoples, other Commonwealth agencies and regional planning experts



## Supporting Environmental Reform

The regional plan aims to:

- ✓ Allow for planning at different geographic scales, with consideration of cumulative risks and key threats, and **support targeted investments in protection, conservation and restoration**.
- ✓ **Streamline development decisions** by moving away from project-by-project assessments to a strategic approach to environmental management.
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## Commonwealth Investment

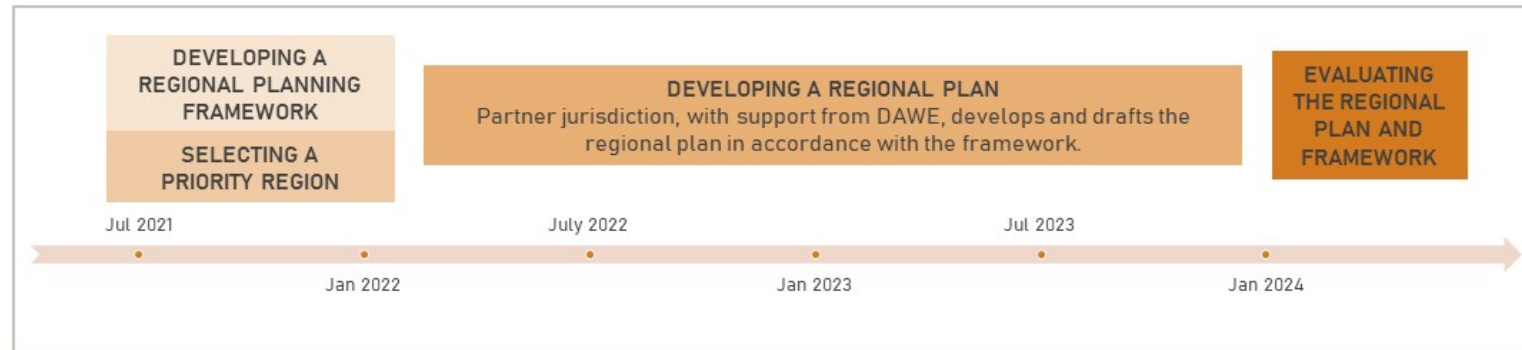
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This forms part of [A pathway for reforming national environmental law](#) following the independent review of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), conducted by Professor Graeme Samuel AC.



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The regional plan aims to:

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- ✓ To support **targeted investments in protection, conservation and restoration.**



## CRC TiME Talking Points – 30 November 2021

### Introduction

- Thank you for inviting me. I am from the Department of Agriculture, Water and the Environment and my area is responsible for major environmental reforms arising from the recent EPBC Act Review. I would like to share with you some information on the Commonwealth's investment in regional planning as part of the EPBC Act reforms.

### Commonwealth Investment in Regional Planning (presentation slide 2)

- The ten yearly statutory independent review of Australia's central environment law, the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act), was tabled earlier this year. The reviewer, Professor Graeme Samuel AC, found that the EPBC Act was not working for the environment, the community or for business and requires significant reform, and he made far-reaching recommendations.
- The government is taking a staged approach to considering the recommendations of the review, in consultation with stakeholders and partners. This approach is consistent with Professor Samuel's findings that fundamental reform should be delivered in stages, and this will enable the government to provide a holistic response to the review.
- On 16 June 2021, the Minister for the Environment released *A pathway for reforming national environmental law* and a *Proposed timeline for EPBC Act reforms*. Together, these documents describe the priority reforms underway and the government's staged approach to reforming Australia's national environmental law, informed by the EPBC Act Review.
- The priority reforms single touch environmental approval processes, underpinned by new national environmental standards with rigorous assurance monitoring. I can describe these in more detail if required, but basically single touch approvals will remove duplicative processes by accrediting states and territories to make environmental assessment and approval decisions in relation to Commonwealth matters.
- However, a key set of recommendations from the EPBC Act Review concern a greater focus on strategic national and regional planning.
- Regional planning will help to identify and protect important environmental assets, leading to better environmental outcomes. It will also give business greater certainty and clarity of their environmental approval pathway by helping to identify the most appropriate areas for development.
- In response to Professor Samuel's recommendations, the Australian Government has allocated \$2.7m over three years to support the development of a regional plan in conjunction with a willing state or territory.
- What is a regional plan?
  - A regional plan is a plan that outlines the environmental and heritage objectives of a particular area on a regional scale, and the relevant actions to be taken that are permitted to achieve those objectives, taking account of economic and social issues.
  - Regional plans could be made under the bioregional planning provisions (s176) of the EPBC Act.

- The Environment Minister may declare (s37A) that certain types of developments under the regional plan can occur without the need of a separate approval under the EPBC Act.

#### Development Approach (presentation slide 3)

- We will take a collaborative and step-wise approach to this work. The reasons for this approach are that the Commonwealth has not used regional planning this way before, and that we need a willing state or territory partner.
  - So, while the Commonwealth has developed marine bio-regional plans, we have not developed terrestrial bio-regional plans so we first need to develop the framework for the program
  - \$2.7 million is not enough to get the data and develop the plan and so we need to partner with a willing state or territory.
  - Collaborating will ensure we get input from stakeholders and experts and that those involved in the development of the plan know what they are in for (the willing state or territory will need to get the data and develop the plan)
- The Department of Agriculture, Water and the Environment will be undertaking the development of the regional plan initiative in four stages:
  1. Development of a regional planning framework (Sep 2021-Jan 2022)
  2. Selection of priority region (Nov 2021-Jan 2022)
  3. Development of a regional plan (2022-2023)
  4. Evaluation of the regional plan and regional planning framework (Jan-Jun 2024)
- The initial regional planning engagement between November and January will focus on developing a framework to describe the principles and desired outcomes. This will include consultation with states and territories, industry, Indigenous peoples, other Commonwealth agencies and regional planning experts.
- Choosing a priority region will be a collaborative process between the Commonwealth and states and territories. The criteria for the location of the priority region are likely to include: developmental pressure, presence of matters of national environmental significance, a willing state or territory partner.

#### Supporting Environment Reform (presentation slide 4)

- The Independent Review of the EPBC Act identified that regional plans could ensure comprehensive protection of important environmental assets while streamlining regulatory processes and supporting targeted investment in environmental management and restoration.
- Regional plans will allow development assessments to move from the current project-by-project focus to a more strategic approach to environmental management. This will improve the assessment and management of cumulative impacts and key threats, streamline development assessments, and provide businesses with certainty when they want to expand

or establish new operations in an area where a regional plan exists. Regional plans will provide clear rules for managing competing land uses and provide a basis for development decisions.

- So, for instance, regional plans will identify areas where developments can proceed without needing referral, assessment and approval under the EPBC Act, areas where development is not to occur and the rule set for other areas in the region covered by the plan.
- A landscape scale approach will be able to better manage cumulative impacts and offers the potential to manage things like offsetting in a more strategic way.
- Regional plans could also set clear priorities for restoration to address historical impacts in consultation with the community. This would allow environmental management and restoration to be co-ordinated within that region to achieve optimal outcomes.
- The plans will reduce the administrative burden on businesses for projects that previously needed to undergo multiple assessments across several layers of government. Regional plans could also expand the coverage of single touch approvals to areas and activities beyond those accredited in an approval bilateral agreement.
- Regional plans, where appropriate, will look to expand and build upon existing natural resource management plans to include all considerations necessary for the the Minister to declare under s37A of the EPBC Act that certain types of developments can occur without the need of a separate EPBC Act approval. Regional plans will be developed with local communities to understand the priorities and needs of those communities. The plans will support sustainable future development of their communities and direct investment in environmental management.

*Regional Planning Placemat (presentation slide 5)*

- This slide shows a placemat which outlines all of the key elements of the program – what we mean by a regional plan, the process, the timeline and the benefits
- We will look to use this placemat – once its finalised – as a key communication tool.



	Bioregional plan ("regional plan")	Strategic assessment	Approval bilateral agreement with a state/territory ("approval bilateral")	Accreditation of a Commonwealth process	Conservation agreement
<b>Part of the Act</b>	Part 12	Part 10	Part 5	Part 4	Part 14
<b>Outcome achieved</b>	Actions taken in accordance with a bioregional plan that is subject to a ministerial declaration do not need Part 9 approval.	The Minister can approve the taking of specified actions in accordance with a endorsed a policy, plan or program (PPP) that the Minister has endorsed. These actions then do not require Part 9 approvals.	A bilateral agreement may declare that actions in a class of actions taken in accordance with an accredited management arrangement or authorisation process do not require approval under Part 9 if they are approved by the state or territory.	The Minister may declare that actions in a class of actions approved by a Commonwealth agency in accordance with an accredited management arrangement or accredited authorisation process do not require approval under Part 9.	The Minister can enter into a conservation agreement with any person. That agreement may include a declaration that actions in a specified class do not need approval under Part 9. The declaration may also specify conditions relating to those actions.
<b>Who does the initial environmental assessment?</b>	For bioregions in Commonwealth areas, the Minister is responsible for preparing the bioregional plan.  For bioregions not wholly within Commonwealth areas, the Minister may cooperate with a state, territory, or any other person in the preparation of the bioregional plan.	The person who is responsible for the adoption or implementation of the PPP to which the strategic assessment relates.	The Minister must be satisfied that there has been or will be adequate assessment of the impacts that actions approved in accordance with it have, will have, or are likely to have on MNES before accrediting a management arrangement or authorisation process.	The other Commonwealth agency who is seeking to have their management arrangement or authorisation process accredited by the Minister, and for the Minister to make a declaration.	To include a declaration in a conservation agreement, the Minister must be satisfied that the actions are not likely to have a significant impact on the MNES to which the declaration relates. The person seeking to enter into a conservation agreement would need to provide information that would allow the Minister to be so satisfied.
<b>Who does it benefit?</b>	All persons within a bioregion (spatial area) who take actions in accordance with the bioregional plan that is subject to a declaration.	Persons (the approval may specify a person or class of persons to whom it applies) taking actions within the class of actions specified in the approval.	Anyone in the state or territory in question who wishes to take an action in the specified class of actions.	Industry groups regulated by other Commonwealth agencies (e.g. the offshore oil and gas mining and exploration industry).	Any person wishing to take an action within the class of actions to which the declaration and conservation agreement relates.
<b>Is an approval required to take an action under it?</b>	No Part 9 approval is required.	The Minister must approve the taking of actions in accordance with the endorsed PPP.  No Part 9 approval is required.	Approval from the state or territory government is still required.  No Part 9 approval is required.	Actions must still be approved by the other Commonwealth agency.  No Part 9 approval is required.	No Part 9 approval is required.
<b>What are the compliance implications?</b>	The action must be taken in accordance with the bioregional plan and be in the bioregion (spatial area) to which the plan relates. If not, the action won't be covered by the declaration and may be in breach of the EPBC Act.	The action must be in accordance with the endorsed PPP and be covered by the approval. The approval holders must comply with any conditions to the approval. Otherwise, it may be in breach of the EPBC Act.	The action must be taken in accordance with the approval and any approval conditions must be complied with. Otherwise, it may be in breach of the EPBC Act.	An action is only covered by the declaration if it is approved by the other Commonwealth agency and is taken in accordance with that approval. Otherwise, it may be in breach of the EPBC Act.	An action is only covered by the declaration if it is taken in accordance with the declaration in the conservation agreement (including any conditions). Otherwise, it may be in breach of the EPBC Act.  Conservation agreements are also legally binding, but only to the parties to the agreement. Provisions of a conservation agreement that require remediation of MNES can be enforced by the Federal Court, and are subject to civil penalty provisions.

# s. 22(1)(a)(ii)

# s. 22(1)(a)(ii)



s. 22(1)(a)(ii)

# s. 22(1)(a)(ii)

**s. 22(1)(a)(ii)**

# s. 22(1)(a)(ii)

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s. 22(1)(a)(ii)

**s. 22(1)(a)(ii)**



# s. 22(1)(a)(ii)

*Under which part of the EPBC Act will the pilot regional plan be undertaken?*

- States and territories will be engaged on the development of the pilot regional plan, including on the scope and potential accreditation options for the plan.
- Options for the pilot regional plan include to develop the plan:
  - With a view to conduct a strategic assessment of the plan under Part 10 of the EPBC Act
    - The EPBC Act contains provisions to approve and accredit strategic assessments (under Part 10 of the Act). Actions taken in accordance with an approved strategic assessment would not require separate Commonwealth approval under Part 9 of the EPBC Act.
  - As a bioregional plan under section 176 (Part 12) of the EPBC Act
    - The Minister may make a declaration under section 37A that an action or class or actions taken in accordance with a bioregional plan do not require Commonwealth approval under Part 9 of the EPBC Act.
  - As a bilaterally accredited management arrangement under section 33 (Part 4) of the EPBC Act.

# s. 22(1)(a)(ii)

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s. 22(1)(a)(ii)

# s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

s. 22(1)(a)(ii)



# s. 22(1)(a)(ii)

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s. 22(1)(a)(ii)



s. 22(1)(a)(ii)

## DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT

MS21-003095

To: Minister for the Environment (For Decision)

**PROPOSED APPROACH TO REGIONAL PLANNING PILOT - EPBC ACT REFORM**

Timing: 6 September 2021 – to enable the commencement of the framework development

**Recommendations:**

1. Agree to the approach and timing for developing the regional planning pilot (**Attachment A**).

Agreed / Not agreed

2. Agree to the preliminary pilot region selection criteria as a basis for future consultation with stakeholders (**Attachment B**).

Agreed / Not agreed

Minister:

Date:

Comments:

<b>Clearing Officer:</b> Sent: 02/09/21	Melissa McEwen	First Assistant Secretary, Environment Protection Reform Division	Ph: 6272 5781 Mob: s. 47F(1)
Contact Officer:	s. 47F(1)	A/g Director, Strategic Policy Design	Ph: 627s. 47F(1) Mob: s. 47F(1)

**Key Points:**

1. Stage 2 of the proposed timeline for EPBC Act reforms includes a commitment to commencing consultation around regional planning in the second half of 2021. There has been significant interest from a wide range of stakeholders in this work.
2. A regional plan is a spatial plan that identifies environmental, economic, social and cultural priorities in a region. Regional plans could be made under the bioregional planning provisions (s176) and approved under s37A of the EPBC Act.
  - a. Regional plans allow for planning at different geographic scales, with consideration of cumulative risks and key threats. They support effective planning for sustainable

- future development and direct investment in protection, conservation and restoration to where it is most needed.
- b. Regional plans enable the focus to move from project-by-project development assessments to a more landscape scale approach, streamlining development decisions and providing business certainty while also creating positive environmental outcomes.
  - c. Actions taken in accordance with a regional plan declared under s37A of the EPBC Act would not require a separate approval under Part 9 the Act.
3. While there are existing provisions to undertake regional plans under the EPBC Act, regional plans have not been developed for terrestrial environments. These environments often have complex cross-jurisdictional boundaries and competing legislative and land-use requirements between multiple levels of government. Work needs to be done to develop an appropriate framework to support how a regional plan would be developed in this context.
  4. The pilot will be undertaken in partnership with a willing state or territory. This is necessary because the Commonwealth is unlikely to have sole jurisdiction in the region where the pilot regional plan is undertaken. Additional benefits for industry and communities are also likely to be realised if the state or territory planning processes are included in the regional plan. An outline of the suggested approach and timeline to deliver the pilot is at **Attachment A**.
  5. The department recommends undertaking the pilot in the following stages, noting that engagement with stakeholders, including states and territories, will commence once timing has been agreed with your office:
    - a. **September – October 2021** – Commence development of a regional planning framework, including a review of regional planning approaches, to inform subsequent engagement and the development of criteria to select the pilot region.
    - b. **October – December 2021** – Targeted engagement, in the form of agile sprints, with key stakeholders including states and territories, industry and environment advocacy groups, Indigenous peoples, other Commonwealth agencies and regional planning experts, to co-design the pilot framework.
      - i. This will occur concurrently with engagement with jurisdictions on the selection of a pilot region to ensure states and territories understand the commitment required to undertake the pilot regional plan.
    - c. **2022 – 2023** – The state or territory, with support from the department, develops and drafts the pilot regional plan in accordance with the framework. This process will involve assessment of evidence, gathering additional information to support data gaps, and consultation with location specific stakeholders on the development of the plan. The department assesses the plan against the framework and the requirements of the EPBC Act.
    - d. **By the end of 2023** – Ministerial approval of the pilot regional plan.

- e. **January – June 2024** – Evaluation of the regional planning pilot and framework identifying recommendations for adapting the framework for future regional planning under the EPBC Act.
6. The department has developed preliminary criteria to assist in identifying suitable locations for the pilot regional plan (**Attachment B**). The criteria will guide targeted engagement with stakeholders on the selection of the pilot location and early development of the regional planning framework.
7. The department seeks your agreement on the overall approach (**Attachment A**) and preliminary criteria (**Attachment B**).

### **Sensitivities and Handling**

8. There has been considerable stakeholder interest in the regional planning pilot both from government and non-government sectors. Stakeholders are expecting the project to commence soon. Any delay in commencing consultation on the framework development and pilot selection is likely to raise questions amongst these stakeholders.

### **Consultation: YES**

9. The Bilateral Agreements Branch, Office of the Threatened Species Commissioner and Program Delivery Biodiversity Conservation Division within the department have been consulted in preparing this brief.

### **Legal advice / Legislative impacts:**

10. Nil. The evaluation of the pilot, anticipated in early 2024, may identify legislative amendments that are required to support broader implementation of regional planning approaches.

### **Financial impacts:**

11. The Australian Government allocated \$2.7m over three years in the 2020–21 Budget to support the development of a regional planning pilot to test the planning approaches recommended by the Independent Review of the EPBC Act.
12. Funding allocated is sufficient to deliver the pilot for one region with one willing jurisdiction.

### **Attachments:**

- A:** Regional planning pilot - approach and timeline
- B:** Preliminary criteria for pilot region selection



**Australian Government**  
**Department of Agriculture,  
 Water and the Environment**

PDR no.

MS21-003095

Adviser

## Ministerial Submission Coversheet

<b>Subject</b>	Proposed Approach to Regional Planning Pilot - EPBC Act Reform
<b>Client (if applicable)</b>	

<b>Division</b>	Environment Protection Reform Division (EPRD) G5		
<b>Contact officer</b>	s. 47F(1)	<b>Telephone</b>	02 627 <sup>s. 47F(1)</sup>
<b>Cleared by (SES)</b>	Melissa McEwen	<b>Telephone</b>	02 6272 5781

<b>Finance Division</b>	<b>Name of contact:</b>	n/a	<b>Date approved:</b> / / 2021
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The Finance Division is satisfied that all due processes have been followed and agree to the financial data/information contained in the submission.

<b>Legal Division</b>	<b>Name of contact:</b>	n/a	<b>Date approved:</b> / / 2021
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The Legal Division is satisfied that the summary of legal advice contained in the submission is an accurate summary of the legal advice that was provided.

<b>FOR MO/AMO USE ONLY:</b>	<b>Scheduled date</b>	<b>Actual date</b>
<b>Date registered</b>	24 August 2021	16 July 2021
<b>Dept to Minister's Office</b>		
<b>DLO to Adviser(s)</b>		
<b>Adviser(s) to Chief of Staff</b>		
<b>Chief of Staff to Minister</b>		

**MO/AMO COMMENTS:**

## DEPARTMENT OF AGRICULTURE, WATER AND THE ENVIRONMENT

MS21-003095

To: Minister for the Environment (For Decision)

## PROPOSED APPROACH TO REGIONAL PLANNING PILOT - EPBC ACT REFORM

Timing: 6 September 2021 – to enable the commencement of the framework development

**Recommendations:**

1. Agree to the approach and timing for developing the regional planning pilot (**Attachment A**).

Agreed / Not agreed

2. Agree to the preliminary pilot region selection criteria as a basis for future consultation with stakeholders (**Attachment B**).

Agreed / Not agreed

Minister:



Date:

22/9/21

Comments: s. 47C(1)

# s. 47C(1)

<b>Clearing Officer:</b> Sent: 02/09/21	Melissa McEwen	First Assistant Secretary, Environment Protection Reform Division	Ph: 6272 5781 Mob: s. 47F(1)	s. 47C(1)
<b>Contact Officer:</b>	s. 47F(1)	A/g Director, Strategic Policy Design	Ph: 627 s. 47F(1) Mob: s. 47F(1)	

**Key Points:**

1. Stage 2 of the proposed timeline for EPBC Act reforms includes a commitment to commencing consultation around regional planning in the second half of 2021. There has been significant interest from a wide range of stakeholders in this work.
2. A regional plan is a spatial plan that identifies environmental, economic, social and cultural priorities in a region. Regional plans could be made under the bioregional planning provisions (s176) and approved under s37A of the EPBC Act.
  - a. Regional plans allow for planning at different geographic scales, with consideration of cumulative risks and key threats. They support effective planning for sustainable future development and direct investment in protection, conservation and restoration to where it is most needed.
  - b. Regional plans enable the focus to move from project-by-project development assessments to a more landscape scale approach, streamlining development decisions and providing business certainty while also creating positive environmental outcomes.