

Anzac Day: COVID-19 Omnibus (Emergency Measures) Act 2020

Last Friday, the *COVID-19 Omnibus (Emergency Measures) Act 2020* (**Omnibus Act**) received royal assent, following an emergency sitting of parliament on Thursday, 23 April 2020. The Act came into operation on Anzac Day, Saturday, 25 April 2020.

This legislation provides temporary regulation-making powers (October expiry) for COVID-19 responses.

It introduces vast changes – VCAT may make new rules for the next 6 months, councils can hold virtual meetings, evictions and rent increases are banned, WorkCover is extended and judge-alone criminal trials can occur.

In most circumstances, amendments to planning land local government reinforces ‘business-as-usual’, in a manner consistent with State and national social-distancing requirements.

However, commencement of the new Environment Protection Act is delayed, further deferring critical effective enforcement action on State-level waste-management and pollution issues. An approach that views the environment as an impediment to COVID-19 economic stimulus packages is deeply concerning. Federal Environment Minister, Sussan Ley, last week announced that amendments to the *Environment Protection and Biodiversity Conservation Act 1998* (Cth) (**EPBC Act**) will accelerate the project approvals process and reduce so-called “green tape” as a response to COVID-19.

Close scrutiny and fearless advocacy remain critical at this time, whilst State and Federal Parliaments remain suspended. If government is permitted to take far-reaching executive actions with minimal independent oversight clear risks arise.

The Law Council of Australia, in its recent submission to the current EPBC Act Review, emphasised governments’ critical role in environmental protection. ‘Green tape’ is a term to be used with caution. Generally an emotive term used pejoratively to critique environmental protection and climate change initiatives, ‘green tape’ actually stimulates innovation and competitiveness. ‘Green’ regulation is a source of information and certainty as to the effective use of resources to enhance wealth. Public interest invariably requires some regulation and reasonable associated costs. ‘Green tape’ must be seen as a positive not merely a negative.

All regulation can deliver important economic and social benefits, not just burdens. Regulatory change itself is a stimulus to economic activity and new business opportunities. It impacts the distribution of productive commercial activity across locations: and away from unproductive and destructive activity. Regulation, in fact, reduces uncertainty and effectively directs human action according to best-practice government policy. Not all regulatory costs associated with regulation are caused by inefficiency or poor-quality regulation.



It is vital that 'shovel ready' projects design for economic recovery are closely aligned to the projects required to address climate change and the serious environmental challenges facing Australia – so strongly highlighted by the appalling summer bushfire disasters.

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28 April 2020

