

Briefing · October 2023

Australia, a global climate outlier?

Key points:

- Australia's environmental laws currently fall short in addressing climate change. The country does not have a climate trigger mechanism, despite having one of the highest rates of biodiversity loss in the world.
- There is a growing number of countries, including the US, UK and New Zealand, that include climate change and emissions considerations in their environmental frameworks.
- The Australian government's stance on fossil fuels stands in contrast to warnings from international scientific bodies regarding the urgency of addressing climate change.
- Australia could be responsible for up to 17% of global carbon dioxide emissions by 2030 if planned expansion of fossil fuels goes ahead.
- The introduction of a climate trigger presents a chance for the country to align itself with global efforts in tackling GHG emissions from fossil fuel projects and reverse alarming environmental trends.

What is a climate trigger?

A climate trigger means governments [have to consider the emissions and climate change impact of a project](#) when assessing whether it should go ahead. Several countries and economies, including the US, UK, European Union, New Zealand and Canada, include assessments of greenhouse gas (GHG) emissions and other climate change considerations in their environmental regulatory frameworks. However, Australia currently has no explicit mechanism to account for climate change and the impacts of fossil fuel projects in its national environmental laws.

Australia's environmental backbone

Australia has a [dual approach](#) to environmental governance, with individual states and territories having their own environmental laws and regulation, alongside national law governed primarily by the [Environment Protection and Biodiversity Conservation Act](#) (EPBC Act). While state and territory laws address environmental concerns within their jurisdictions, the EPBC Act serves as a comprehensive framework that complements and coordinates these efforts.

The EPBC Act designates nine key areas as [matters of national environmental significance](#), or triggers, including specific regions, species and ecosystems that hold ecological value and require protection at the national level. If a project is deemed likely to have a significant impact on one of these areas, then a thorough impact assessment and environmental approval process is "triggered."

The nine triggers identified under the EPBC Act are:

1. **World Heritage properties:** such as the Great Barrier Reef and the Tasmanian Wilderness.
2. **National Heritage places:** sites recognised for their outstanding heritage value to the nation, such as iconic landmarks or culturally significant areas.
3. **Wetlands of international importance:** designated under the Ramsar Convention, an international treaty aimed at conserving key wetland ecosystems and their biodiversity.
4. **Listed threatened species and ecological communities:** endangered species and ecosystems that are at risk of extinction or significant decline.
5. **Listed migratory species:** migratory birds and marine species that require protection during seasonal movements across national and international borders.
6. **Commonwealth marine areas:** the marine environment within Australia's Exclusive Economic Zone, such as the Great Barrier Reef Marine Park.
7. **Nuclear actions:** activities related to uranium mining, nuclear power plants, and other nuclear-related actions.
8. **Water resources:** the impacts of coal seam gas and large-scale coal mining on water quality and availability.
9. **The Great Barrier Reef:** activities that may impact water quality, coastal development and shipping activities.

Criticism of current laws

The lack of a climate trigger has prompted [concerns in Australia over the effectiveness of the EPBC Act](#), in which "climate change" appears just once, as well as the country's [commitment to the 2015 Paris Agreement](#). Advocates of a climate trigger [argue that its omission results in insufficient scrutiny of activities](#). Projects with substantial climate impacts are allowed to proceed without undergoing the same rigorous assessments as those falling under other triggers, leading [to potential habitat degradation and exposing ecosystems to climate-related risks](#).

Importance of climate trigger for Australia

Increasingly high temperatures, wildfires and other climate impacts have [significantly disrupted numerous ecosystems and species](#) in Australia. The country [has one of the highest extinction rates of plant and animal species in the world](#). Since 1999, [84% of threatened species have experienced habitat loss](#). In the last seven years, Australia witnessed a series of marine heatwaves that lead to four mass coral bleaching events on the Great Barrier Reef, causing a [50% decline in the coral population](#). Climate change has the potential to [exacerbate these losses by fivefold](#).

Climate triggers globally

Globally, there is a [growing trend of countries](#) incorporating climate change considerations into their national environmental frameworks, and the assessment of projects with large amounts of GHG by independent bodies has become standard practice. Examples include the EU, the UK, the US, Canada and New Zealand.

While the environmental frameworks of these countries differ in scope, enforceability and effectiveness, they all prioritise human well-being. The frameworks of the UK, US, and Canada do not explicitly mandate GHG assessments, but GHG considerations are indirectly addressed through other legal mechanisms. Climate change considerations, while not always explicitly mentioned, are increasingly woven into these frameworks, [reflecting a global imperative to address climate-related challenges](#).

Table 1: Comparative analysis of environmental legislation

The countries chosen for analysis – the UK, EU, US, Canada, and New Zealand – were selected based on several criteria to enable meaningful comparisons. New Zealand's proximity to Australia provides regional relevance. The EU and UK dominate global climate discussions, while similarities in political systems led to the inclusion of Canada and the US.

Primary Environmental Law	Scope	Legal mention of climate change	Impact assessment measures	Analysis	
EU	Environmental Impact Assessment (EIA) Directive	Mandates member states to assess environmental impacts, including GHG emissions, for various public and private projects, including gas and oil pipelines, refineries and oil extraction exceeding 500 tonnes/day.	Explicitly includes climate change considerations within environmental impact assessments.	Urges member states to incorporate climate-related mitigation measures when risks are identified.	The EU provides guidance on integrating climate change considerations into impact assessments , but its effectiveness varies among member states due to differences in implementation, resources and enforcement.
	Strategic Environmental Assessment Directive	Complements the EIA Directive, focusing on strategic environmental assessments for plans and programs with potential environmental harm.			

UK	Environment Act 2021	<p>Imposes binding targets for air quality, water, biodiversity and waste reduction. Creates the Office for Environmental Protection (OPE) to enforce compliance and hold government and public bodies accountable.</p>	<p>Underscores the imperative of addressing climate change. Mandates collaboration between the OPE and the Committee on Climate Change.</p>	<p>Lacks impact assessment measures. GHG emissions assessments are instead regulated by the Climate Change Act 2008 (CCA) and the Environmental Impact Assessment (EIA) process. CCA introduced legally binding national carbon budgets. EIA mandates project developers to evaluate and mitigate environmental impacts, including direct and indirect GHG emissions.</p>	<p>Despite climate considerations, the Act leaves gaps in addressing the country's ecological footprint, potentially undermining the government's credibility in leading global efforts to combat climate change and biodiversity loss.</p>
US	National Environmental Policy Act (NEPA)	<p>NEPA establishes a national policy for harmonising human activities with the environment, preventing damage, and promoting understanding of ecological systems and natural resources. The Environmental Quality (CEQ) was created to oversee federal agency compliance.</p>	<p>No specific mention of climate change. However, CEQ offers guidance to federal agencies on integrating climate considerations into their impact assessments and encourages them to include resilience and climate adaptation measures in their project proposals.</p>	<p>NEPA requires federal agencies to perform thorough environmental impact assessments, using Environmental Impact Statements for significant impact projects and Environmental Assessments for less impactful ones, but lacks mention of GHG assessments.</p>	<p>A study revealed insufficient consideration of climate change in federal energy project reviews. In response, in July 2023, CEQ proposed NEPA reforms, including more emphasis on climate change and environmental justice in the assessment of major federal projects.</p>
CA	Canadian Environmental Protection Act, 1999 (CEPA)	<p>CEPA provides federal authority for the regulation of a range of environmental concerns, including pollution, toxic substances and air quality, with the aim of protecting human and ecosystem well-being.</p>	<p>CEPA makes no specific mention of climate change within its text.</p>	<p>CEPA doesn't address project environmental assessments; the Impact Assessment Act (IAA) instead handles them. The IAA, managed by the Canadian Environmental Assessment Agency, assesses projects impacting 20 listed factors, including climate change. Projects like coal mines over 5,000 tonnes per day or</p>	<p>CEPA has undergone recent reforms to incorporate the right to a healthy environment, but it has yet to include explicit references to climate change. Additionally, a review of the IAA revealed that it does not mandate assessments of small-scale fossil fuel projects, and</p>

				fossil fuel projects exceeding 200 MW capacity trigger an automatic assessment.	proposals for new coal mines in biodiverse habitats persist.
NZ	Resource Management Act 1991 (RMA)	<p>The RMA governs land use, resource management and environmental protection in New Zealand. It covers a range of activities, including land development and environmental conservation.</p>	<p>Specifies that government representatives and local authorities should have particular regard for the effects of climate change.</p>	<p>The RMA allows authorities to assess a project's GHG emissions and its environmental impact with regard to climate change when deciding whether to approve or reject resource consent applications. For fossil fuel-related activities, applicants must show the infeasibility of low-emission alternatives, except for those emitting under 500 tonnes of CO2 per year.</p>	<p>By the end of 2023, the New Zealand government plans to replace the RMA, viewed as lacking national direction, with three new frameworks. This move aims to enhance national environmental performance and tackle complex challenges related to climate change and adaptation funding.</p>

Australia's climate trigger proposal

The debate over whether to adopt a climate trigger mechanism in Australia has been ongoing for decades, and [several proposals](#), including a [bill submitted by then Shadow Minister for Environment and Heritage Anthony Albanese](#), failed to win enough support. This was due to concerns that such a trigger would harm [jobs, economic development and investment](#), or clash with [existing environmental legislation](#).

In 2020, a review of the EPBC Act found that it had [failed to adequately protect Australia's vulnerable flora, fauna and ecological communities](#). The Australian government has committed to revising the Act, and in December 2022 a [series of reforms were proposed](#) by the government to be adopted in late 2023. However, climate change considerations were still not addressed.

The Australian [Greens plan to submit a proposal for a climate trigger](#), in order to [position the country on par with international trends](#). Building on an unsuccessful 2020 proposal, [the new bill is expected to cover the following](#):

- **Ministerial authority on carbon dioxide emissions:** the bill would grant the climate minister the authority to factor in GHG emissions when making project-related decisions. These powers are categorised into two thresholds:
 - **Significant Impact on Emissions:** Projects emitting 25,000 to 100,000 tonnes of GHG emissions annually must be evaluated by the ministry, ensuring alignment with the national carbon budget and emission reduction targets.
 - **Prohibited Impact on Emissions:** Projects emitting over 100,000 tonnes will automatically be denied approval.

- **Introduction of national carbon budget and enhanced roles for the Climate Change Authority (CCA):** The CCA is an Australian government agency responsible for providing independent advice on climate change policy. If passed, the bill will mandate the CCA to develop a national carbon budget spanning from 2023 to 2049 in terms of total carbon dioxide equivalent emissions. The CCA must conduct annual evaluations of the remaining budget, while the minister is responsible for evaluating projects, considering the ongoing assessments of the budget.

How does Australia's climate trigger compare globally?

While most laws discussed in Table 1 are undergoing revisions to better address the challenges posed by climate change, parallels can be drawn between some of them and Australia's Climate Trigger proposal. Under the Climate Change Act 2008, [the UK became the world's first country to establish legally binding carbon budgets](#). The measure closely resembles what the Climate Trigger bill aims to introduce in Australia – a national carbon budget, accompanied by annual evaluation of new projects. In Canada, the [environment minister was also given authority to require assessments for certain projects](#) if they could have adverse climate impacts. These parallels underscore how Australia's bill aligns with international efforts to address climate change and responsibly manage emissions, something that is argued to be [lacking in the current EPBC Act](#).

However, what sets the Australian Greens' bill apart from other laws [is its commitment to explicit emissions thresholds](#). Among the countries examined, none of them automatically ban projects that exceed specific emissions limits. While [this doesn't prevent new fossil fuel projects being approved](#) that emit more than initially estimated, it does pave the way for regulating these emissions.

Next steps for Australia's climate trigger mechanism

The bill is [currently under consideration by an environmental committee](#) in the Australian Senate and a final ruling is expected in December 2023. [A majority of lawmakers in parliament](#) now recognize the need for government intervention in addressing climate change, and the crossbench offers strong support for a climate trigger.¹

However, there has been a significant shift in the stance of Prime Minister Anthony Albanese and the Labor party since 2005. The current [Labor government has ruled out a ban on new fossil fuel developments](#) as long as investors perceive demand for coal and gas. It argues that [introducing flexible measures, such as carbon offsets](#), would allow fossil fuel projects to proceed while still enabling the country to achieve its 43% emissions reduction target for 2030. The government's position diverges from the warnings of organisations such as the [United Nations](#), and leading climate science bodies such as the [Intergovernmental Panel on Climate Change](#) and the [International Energy Agency](#).

Australia is the [world's third-largest exporter of fossil fuels](#) behind Russia and Saudi Arabia, accounting for about 7%. In 2022, Australia had twice the electricity use per capita of China, and 47% of its electricity was generated by coal-fired power plants – more than four times the global average. Since 2014, the expansion of [LNG production in Australia has grown by 360%](#), leading to a significant increase in national emissions levels. By 2030, Australia could potentially be responsible for up to [17% of global emissions](#), up from about 5% currently, if government and industry projections for fossil fuel expansion go ahead.²

¹ The crossbench is where independent and minor party members sit in Australia's parliament.

² Assumes that the rest of the world adopts policies in line with the Paris Agreement.

The Climate Trigger bill offers Australia the opportunity to take accountability for its emissions and the global harm caused by fossil fuels extracted within the country. If passed, it may help to reverse concerning environmental and biodiversity trends.